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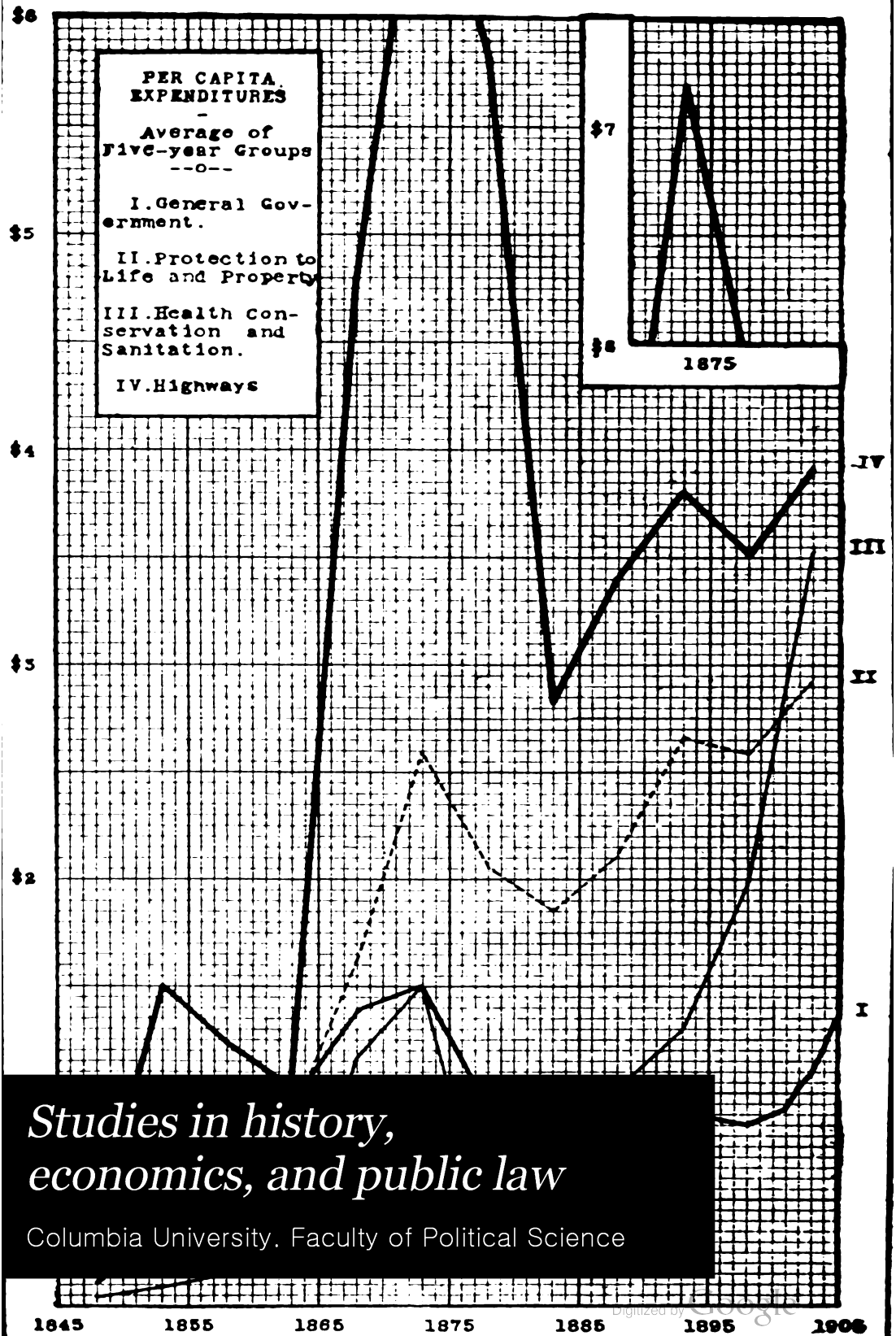
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STUDIES IN HISTORY ECONOMICS AND PUBLIC LAW

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STUDIES IN HISTORY, ECONOMICS AND PUBLIC LAW

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Volume XXV] [Number 1

MUNICIPAL CONTROL OF PUBLIC UTILITIES

A Study of the Attitude of our Courts toward an Increase of the Sphere of Municipal Activity

BY

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New York

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CHAPTER I

Introduction

One of the most marked characteristics of American as of European civilization is the great development of urban life. This development has been not only extensive but intensive. Cities have increased not only in number but also in size, and not only are the problems incident to urban life becoming of interest to greater and still greater numbers of persons but the solution of these problems is at the same time becoming more difficult and more necessary.

One of the methods of solving these problems is the extension of the sphere of municipal activity. At one time our conception of a city, similar to our conception of the government as a whole, was that it was an organization which should preserve order and, within the limits of the law which it was its duty to enforce, permit the greatest possible freedom of action to the individual, from whose initiative and energetic activity it was believed that the community as a whole would derive the utmost advantage.

It was found, however, that unregulated or insufficiently regulated individual activity was followed in the life of our urban communities by such evils that it became necessary to have greater and greater recourse to the repressive activity of municipal as well as state governmental organs. Such repressive activity was believed at first in many instances to be inconsistent with the guarantees of individual rights contained in our constitutions. But our courts, to which appeal was had by those who thought that their constitutional rights were being violated through the increase in the activity of our governments, decided that all in-

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dividuals held their rights subject to the regulatory power of the state. They elaborated what was called the police power through the exercise of which the community could, notwithstanding constitutional provision, protect itself against the undue emphasis by the individual on what he regarded as his constitutional rights.

Of late years, however, it has come to be believed by many that a due consideration for the rights of the community and the proper promotion of the public welfare are not secured through the mere repressive action of our governments and that on the contrary the only way in which the greatest advantage to the public as a whole can be secured is through the positive action of our governmental agencies by offering greater opportunities to the masses to better both their physical and their spiritual conditions.

Inasmuch as the problems of our modern civilization become more acute in the most complex conditions which exist and which are to be found in our cities, this demand for the extension of governmental activity has naturally assumed the form of a demand for the municipal ownership and operation of what have come to be known as municipal public utilities.

But just as when the demand was made for the extension of the repressive activity of government, it was alleged that such action was prohibited by our constitutional provisions protecting private rights, so now it is claimed that the system of municipal government outlined in our constitutions and in our law of municipal corporations is of a distinctly governmental character, as it is sometimes called, and does not permit the city as we know it to enter into the field of what is denominated as private business. The city in our system, it has been said, is organized for government and not for profit. Its activity should therefore be confined to those purposes which, be-

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cause their pursuit is unprofitable, will not be undertaken by private effort; and profitable undertakings must be left to such private effort which will both undertake all that is necessary and do what is done better than the city can be expected to do it.

It is to answer the legal questions raised by such a claim that the following inquiry is undertaken. In order to accomplish the purpose, which has thus been outlined, the attempt has been made to ascertain both the nature of the city organization as expressed in the law and the construction placed by the courts on the powers given to cities; to discover what are the limitations on municipal activity which are contained in our constitutions, as construed by the courts, and how far the judicial construction of the law with regard to the taxation and sale of the property of cities aids or hampers the cities in the discharge of the new duties which they may be called upon to assume; and finally to ascertain what are the powers of control possessed by cities over the operation by private individuals of those public utilities which it is deemed wise to leave in private hands.

While it is not intended to anticipate here the results of this inquiry, it may not perhaps be amiss to say that the courts have again shown themselves to be regardful of the necessity of changing our conceptions of what is the proper sphere of governmental activity when the change in our economic and social conditions has seemed to make such a change necessary. As in the past they developed the idea of a repressive police power whose exercise was not inconsistent with constitutional private rights, so now

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CHAPTER II

The Two Capacities of Municipal Corporations

Municipal corporations, like all others, are creatures of statutory origin and possess only the powers granted to them by the legislature. These powers consist of those granted in express words; those necessarily or fairly implied in or incident to the powers expressly granted; and those essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable.[1]

The powers with which municipal corporations are thus endowed are of two main classes and bring it about that municipal corporations act in two distinct capacities. The one is governmental, legislative or public; the other is proprietary and essentially business or commercial. As an agent of the state which creates it the municipality administers justice, attends to the preservation of the public peace, and performs other duties, essentially public and governmental.[2] On the other hand, in the enforcement of many of its own by-laws, in the erection and operation of gas works, electric-light plants, and waterworks and in attending to matters of local interest merely the corporation acts as a business concern.[3]

Over all the public or governmental powers exercised

[1] Dillon, *Municipal Corporations*, sec. 89 and cases cited.

[2] Springfield Fire & Marine Ins. Co. *vs.* Keeseville, 148 N. Y., 46; Illinois Trust & Savings Bank *vs.* Arkansas City, 76 Fed., 271.

[3] City of Henderson *vs.* Young, 83 S. W., 583; Port Jervis Water Co. *vs.* Port Jervis, 151 N. Y., 111; The City of Indianapolis *vs.* The

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by the city in its capacity as an agent of the state the authority of the state is from the nature of the relation between it and the city, essentially supreme, in the absence of constitutional limitations. The rule of law is well established that municipal corporations have no authority to make contracts for the discharge of a purely public governmental duty. Such governmental functions and powers must be left free and untrammeled so that they may be exercised for the benefit of the citizens as the emergencies may arise.[1] A city for example cannot make a contract with the owner of a building to put out a fire therein and then require him to pay for such service, nor can it expose itself to liability if it fails to put out the fire with regard to which it has attempted to make the contract. The municipality cannot abridge its legislative power by contract. The case of Brick Presbyterian Church *vs.* City of New York[2] states the reason for this rule of law. The action in the case was for breach of covenant for the quiet enjoyment of premises which the defendant city had leased to the plaintiff for church and cemetery purposes. After making the lease and pursuant to a statute the city by ordinance prohibited the use of such premises for a cemetery. In refusing relief on the ground that the city had no power to limit its legislative discretion by covenant the court said: "Sixty years ago, when the lease was made, the premises were beyond the inhabited parts of the city. They were a common; and bounded on one side by a vineyard. Now they are in the very heart of the city. When the defendant covenanted that the lessees might enjoy the premises for the purposes

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of burying their dead, it never entered into the contemplation of either party, that the health of the city might require the suspension or abolition of that right."

In the case of Crowder *vs.* Town of Sullivan,[1] the court states this principle of the inability of the city to contract with reference to its public or governmental duty by saying: "A private corporation that obtains a license to use the streets of a municipality takes it subject to the power of a municipality to enact a general ordinance; for a governmental power such as that exercised in enacting police regulations cannot be surrendered or bartered away even by express contract." Again in Snouffer *vs.* Cedar Rapids & M. C. Ry. Co.,[2] the court expresses this well established principle of law to the effect that, "in the absence of statutory authority, any contract or agreement, whether in the form of an ordinance or otherwise, which directly or indirectly surrenders or materially restricts the exercise of a governmental or legislative function or power, may at any time be terminated or annulled by the municipality."

But if the municipal corporation owns buildings and equipment and has employed men to discharge its public or governmental duties which do not require the entire service of such properties or men, it may contract for their use for private purposes.[3] The courts generally permit this diversion of forces, lawfully employed by the city for the public service, to the performance of private work under contract but only to the extent that there is a surplus of such forces. This privilege of subletting such excess properties is given by the courts in the absence of express

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ways be found for the employment of these forces and the acquirement of the equipment for serving the public so that their use for private purposes is only temporary and incidental. A town, having in its public buildings rooms which it had the authority to build as a part of such structures and which are not needed for public purposes for the time being, is not obliged to let them stand idle but may realize revenue from renting them for private purposes.[1]

The case of Pikes Peak Power Co. *vs.* City of Colorado Springs,[2] offers a good statement of this rule of law, together with the reason upon which it is founded: "But it is equally true that municipalities and their officers have the power and use of all public utilities under their control for the benefit of their cities and citizens, provided always that such application does not materially impair the usefulness of these facilities for the purpose for which they were primarily created. . . . Where a city has had legislative authority to erect a dam for the purpose of providing waterworks for the city, it might lawfully lease for private purpose any excess of water not required for its waterworks. This is a just and reasonable rule. It is a rule not inconsistent with any principle of law or equity and in accord with that good sense and good business principles which recognize as a public good the growth of two blades of grass where but one grew before, and the conversion of waste to use."

Having in mind then, this distinction of the two capaci-

[1] French *vs.* Inhabitants of Quincy, 3 Allen, 9. The same principle was recognized in the case of George *vs.* School District, 6 Metc., 497, where the court upheld an agreement for the erection of a second story for a hall which was intended only for the occasional use of the school. To the same effect see Riverside, etc. Co. *vs.* City of Riverside, 118 Fed., 736.

[2] 105 Fed., 1.

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ties in which municipal corporations may act—the one in which, as an arm of sovereignty or an agent of the state, it is charged with legislative and governmental powers; and the other in which it is a property holder and conducts a business enterprise for the private advantage of the city and its citizens, it should be remembered that this discussion is concerned chiefly with the latter division of the subject. The powers of the municipality in its former capacity are well defined and strictly limited by the statutory provisions granting them. There is little or no opportunity here for invoking the doctrine of liberal construction nor for extending its sphere of activity by the doctrine of implied powers. It is the duties of the sovereign that are to be performed in the manner provided by law and its interests alone are to be considered.

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CHAPTER III

Construction of Municipal Charters

The rule of law is well established to the effect that the discretion of municipal corporations, within the sphere of their powers and particularly their private powers, is not subject to judicial control, except in cases where fraud is found or where the power or discretion is being grossly abused to the oppression of the citizen.[1] In its capacity as a business organization the powers conferred on a municipal corporation are for its own special interest and advantage. The interest of the state is only secondary, and the main purpose is to benefit the particular locality incorporated and its citizens. Considering this as the chief purpose in the creation of such corporations the courts favor the exercise of the fullest discretion in carrying out the powers granted which would be consistent with the general object of the grant, and the best interests of the grantee.[2]

In the case of City of Vincennes *vs.* Citizens' Gas Light Co.,[3] this rule of law is laid down as follows: "The making of contracts for the supply of gas or water is a matter, delegated to the governing power of municipalities, to be exercised according to their own discretion; and in the ab-

[1] The City of Valparaiso *vs.* Gardner, 97 Ind., 1; Atlantic City Waterworks Co. *vs.* Atlantic City, 6 Atl., 24; Rockerbrant *vs.* Madison, 9 Ind. App., 227; City of St. Paul *vs.* Laidler, 2 Minn., 190.

[2] Sun Publishing Ass'n *vs.* Mayor, 152 N. Y., 257; The City of Bridgeport *vs.* The Housatonic Ry. Co., 15 Conn., 475.

[3] 132 Ind., 114, 126.

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sence of fraud, while acting within the authority delegated to them, their action is not subject to review by the courts. The length of time for which they shall bind their towns or cities depends upon so many circumstances and conditions as to situation, cost of supply and future prospects, that the courts can interfere only in extreme cases and upon reasonable application."

In Conrey *vs.* Waterworks Co.,[1] the court said: "If the city had the power to make the contract, and confined herself within the limits of the power, the quantity and kind of water, the price, etc., were matters within the legislative discretion of the City Council, and unless there is fraud in the execution of the contract, courts will not inquire into this discretion." Again in the case of Janeway *vs.* City of Duluth,[2] the court said: "Whether or not a new water plant is necessary is a legislative question and not a judicial one. The court cannot substitute its judgment for that of the city council and the voters of the city."

The case of City of Henderson *vs.* Young,[3] also contains a good statement of this principle as well as the reason on which it is founded: "In the management and operation of its electric-light plant a city is not exercising its governmental or legislative powers, but its business powers, and may conduct it in the manner which promises the greatest benefit to the city and its inhabitants in the judgment of the city council; and it is not within the province of the court to interfere with the reasonable discretion of the council in such matters."

Finally in the case of Torrent *vs.* City of Muskegon,[4]

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in saying this, we do not assume that it belongs to this court or any other, to dictate to the city how it shall spend its money. The council must use its own discretion where it will save and where it will spend; and the case must be a very clear one, and the subterfuge very plain, before that discretion can be regarded as having been exceeded so as to show an excess of power under a pretense of keeping within it. It is not the business of courts to act as city regulators, and unless the authority of the representatives of the citizens has been exceeded, their action cannot be interfered with merely because it may not seem to other persons to be as wise as it might be."

But unless expressly authorized by statute municipal corporations have no authority to furnish entertainment for guests of the corporation at the public expense. In doing this without such authority the courts are of the opinion that there is an abuse of discretion, and that expenses are incurred which the citizens should not be made to pay. This rule is well stated in the case of Gamble *vs.* Village of Watkins.[1] This was an action to recover for meals and lodging, furnished in entertaining a party of representatives of the press, which had been authorized by a resolution of the board of trustees of said village. In refusing recovery the court said: "We think that the defendant had not power to appropriate money for the entertainment of a company of editors visiting the place. This is not a duty for which the municipality was created. It is said that the expenditure has been repaid by the effect on the village of subsequent editorial puffs. But it is not proper for village trustees to hire editors to praise the attractions of the place. If it had been shown that the editors were

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the poor, there might have been some propriety in keeping them from starving." Again in the case of Austin *vs.* Coggeshall,[1] the court permanently restrained the payment by the city treasurer of an account incurred in entertaining officers of certain British ships of war while in Newport harbor. "The defense would be more meritorious if the persons in whose behalf it is interposed had any claim on the city for value received. But they have none. The city neither danced at the ball nor feasted at the banquet. It got nothing substantial out of them. . . . It is well settled that a municipal corporation, when sued directly on a contract which it is incapable of making, cannot be estopped from taking advantage of its incapacity because the party suing has acted on the contract in good faith."

These cases then will serve to illustrate the limitations which the courts place on the discretion of the municipality in cases of its abuse in order to protect the citizens. In refusing recovery for services to the city, rendered in good faith, the court shows how far it will go to protect the citizens against an abuse of power by their servants, the municipal authorities, and invokes the well accepted rule of law which requires the individual to know the extent of the authority possessed by the municipality in contracting with it. And as it is axiomatic that fraud vitiates everything it touches, it follows that where fraud is found the courts will not respect the discretionary rights of municipal corporations.[2]

With these two limitations the rule is absolute that the discretion of municipal corporations within the sphere of

[1] 12 R. I., 329.

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their powers is as wide as that possessed by the general government. The legislative is a co-ordinate branch of government and within its sphere is supreme, and so is the municipal corporation within its prescribed limits. The judiciary has no more right to interfere with the acts of one than of the other.[1]

In construing municipal charters only such strictness is observed as gives effect to every power clearly intended to be conferred on the municipality and every power necessarily implied in order to permit of the complete exercise of the powers granted. While their sphere of activity is to be confined strictly within the limits prescribed by the law, within these limits their action is favored by our courts. And powers intended to be conferred will not be defeated or impaired by a strict construction.[2]

These principles are well expressed by the court in the case of Thomas *vs.* City of Grand Junction,[3] where it is said: "The whole spirit of the law is so far as possible to permit under reasonable restrictions the privilege of self-government. In fact, that it was the intent of the legislature in its grant of powers to municipal corporations to give them the fullest power and utmost freedom of action with reference specially and exceptionally to the securing of such a water supply as might be deemed needful, is clearly manifest from the very terms of the act."

Again in Columbus Water Co. *vs.* Mayor of Columbus,[4] the court says: "Neither would we apply the rule with the same strictness to municipal corporations that should

[1] 15 *American and English Encyclopædia of Law*, 1st ed., 1046 and cases cited.

[2] Smith *vs.* City of Madison, 7 Ind., 86; Kyle *vs.* Malin, 8 Ind., 34.

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govern private corporations organized for gain. Courts should be governed by the conditions and circumstances surrounding the municipalities, and regard them as branches of the sovereign government. When improved methods are offered which will give to the city better facilities in the way of water, light and travel or in any other manner give to its inhabitants increased safety or protection, the governing power of the city should be free to act."

Finally in Torrent *vs.* City of Muskegon,[1] the court defines the rule of construing municipal charters by saying: "If cities were new inventions, it might with some plausibility be claimed that the terms of their charters, as expressed, must be the literal and precise limits of their powers. But cities and kindred municipalities are the oldest of all existing forms of government, and every city charter must be rationally construed as intended to create a corporation which shall resemble in its essential character the class into which it is introduced. There are many flourishing cities whose charters are very short and simple documents. . . . But if we were to assume that there is nothing left to implication, we should find the longest of them too imperfect to make city action possible." [2]

[1] 47 Mich., 115.

[2] See also Baumgartner *vs.* Hasty, 100 Ind., 575; Pittsburgh, etc., Ry. Co. *vs.* The Town of Crown Point, 146 Ind., 421; The State *ex rel. vs.* City of Hiawatha, 53 Kan., 477.

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CHAPTER IV

The Implied Powers of Municipal Corporations

The principle of the implied powers of municipal corporations is therefore fully recognized by all our courts. Through the recognition of the existence of implied powers more than in any other way they have given effect to the purpose, and recognized the object, for which municipal corporations are established. The field is naturally a fertile one for judicial legislation and construction, and it has been freely exploited in giving effect to the powers necessary to a full enjoyment and a complete realization of the advantages of such corporations, to the end that the greatest public good might be attained. Decisions giving the most complete freedom of activity to municipalities, consistent with their best interests and not derogatory of specific statutory regulations, represent the great weight of authority. It is only a few of our courts that refuse the right of municipal corporations to keep abreast of the times and to conduct their affairs to their best advantage and for the greatest benefit of their citizens. In view of the fact that the sole purpose of such corporations in their capacity of business concerns is to benefit the people who inhabit them and thus constitute their stockholders, so to speak, it is submitted that the present advantage and the prospective advancement of these organizations should be the test of the control exercised over them by the legislature and the courts. The only other party even remotely concerned is that of the state and its interests must be identical with

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those of the city. Since the interests of the two parties involved is the same it is only reasonable to suppose that the one party, in legislating for the other, intends always to accomplish the greatest good for the greatest number concerned.

Because of the many details and the varying circumstances of the different cities, only general legislation with reference to them is advisable or possible. This necessitates the exercise of much judgment by the cities, in whose officers must be vested a wide discretion. And in construing such general statutes in a particular case regard must be had for the facts and circumstances of the case in hand so that the general law as applied will give the best results. It is in determining the legislative intent and in giving such intention the most favorable application to the particular city of which it will admit, that the courts take the opportunity to advance the interests by extending the scope of the activity of such municipality as its welfare requires. And it is submitted that the authorities with very few exceptions do favor a decided increase of the sphere of municipal activity for the reason that the best interests of these corporations demand it.

Under the doctrine of the implied powers of municipal corporations the decisions of the different cases extending their sphere of activity are based on one of three grounds. The first which is probably the most frequently invoked is that of the police power, whose application in this connection, as well as in others, is an excellent illustration of the pertinent remark by one of our courts that, " it may be said that it is known when and where it [the police power] begins, but not when and where it terminates.[1] Another

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is that of the general welfare clause found in many city charters. This is often mentioned in connection with the third reason with which it is closely allied—that the purpose is public or municipal.

All three of these are sound reasons for the decisions of our courts, recognizing in municipal corporations additional powers on the theory that they are entitled to exercise powers "necessarily or fairly implied in or incident to powers expressly granted, or those essential to the declared objects and purposes of the corporation." It may seem that the police power is the least germane and definite because of its elasticity and of the very wide application which it is given as the reason for some decisions upon almost all subjects. It is, however, a valid basis for these decisions, for the furnishing of water, light, gas, and such public utilities to the individual inhabitants of cities concerns the protection of their health, life and property, which constitutes a duty of the municipality to its citizens. But naturally the public welfare clause of the charter or the fact that the purpose is a municipal one furnishes a basis for this line of decisions that is more peculiarly applicable than that of the police power.

Statutes expressly providing that municipal corporations may furnish such public utilities as electric light, water and gas for the private use of its citizens as well as for the city are universally upheld by all our courts as constitutional.[1]

In the case of Linn *vs.* Borough of Chambersburg,[2] the court says: "The power of the legislature to authorize

[1] Fallows *vs.* Walker, 39 Fed., 651; Opinion of the Justices, 150 Mass., 592; Mitchell *vs.* City of Negaunee, 113 Mich., 359; Norwich

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municipal corporations to supply gas and water for municipal purposes, and for the use and benefit of such of their inhabitants as wish to use them and are willing to pay therefor at reasonable rates, has never been seriously questioned. In view of the fact that electricity is so rapidly coming into general use for illuminating streets, public and private buildings, dwellings, etc., why should there be any doubt as to the power to authorize such corporations to manufacture and supply it in like manner as artificial gas has been manufactured and supplied? It is a mistake to assume that municipal corporations should not keep abreast with the progress and improvements of the age."

Further the power of the municipality to provide these public utilities for the private use of its citizens is implied from the power to furnish such utilities for use upon its streets and in other public places in the absence of any express legislative authority by most of our courts. There are a few decisions it is true which refuse the city the right so to extend its sphere of activity and usefulness for the advantage of its citizens. The great weight of authority, however, and certainly the better reason permits this extension of power and favors an increase of the sphere of municipal activity.

The rule of law is well established to the effect that a city, in erecting gas, water or electric-light plants, is not limited to providing the service of such utilities for use only upon the streets and in other public places of the city, but that it may in connection therewith furnish the same for the private use of its citizens. Some of our courts have even held that it is the duty of the municipality not

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In view of this diversity of opinion of the authorities and the recent date of the decisions which make it impossible to speak of the doctrine as finally accepted by all our courts, it has been thought best to set out somewhat at length some of the decisions together with the grounds upon which they are based so that the authority may appear for the position herein taken—that our courts favor an increase of the sphere of municipal activity.

The case of Thompson Houston Electric Co. *vs.* City of Newton,[1] decided in 1890, was an action to enjoin the defendant, City of Newton, Iowa, from purchasing and operating an electric-light plant, and furnishing light for the streets and public places of said city and for the private use of its inhabitants. The only statutory authority given the city provided that it might "establish and maintain gasworks or electric-light plants, with all the necessary poles, wires, burners and other requisites of said gasworks or electric-light plants." Section 2 of the same act made the statutory authority for the erection and maintenance of gasworks and electric-light plants the same as that applicable to waterworks.[2] The court in defining the powers of the city under this statute says that: "It is also urged that the city has only the authority to erect an electric plant for the purpose of lighting the streets and public places of the city, and is not authorized to furnish lights for use in the houses and stores of its citizens. The act of the general assembly giving the right to cities to erect, or to authorize the erection of electric plants, makes no distinction between lights used for public or private purposes; and the right of the city in the erection of its own plant is not limited in any other way than is the right of a company authorized by

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the city to erect the plant. It has been the uniform rule that a city, in erecting gasworks or waterworks, is not limited to furnishing gas or water for use only upon the streets and other public places of the city, but may furnish the same for private use, and the statutes of Iowa now place electric-light plants in the same category." This decision was cited with approval and followed in the case of State ex rel. *vs.* Allen,[1] decided in 1903, upon facts very similar to the original case. The argument advanced by the complainant that furnishing electricity to the inhabitants together with the city for public purposes was in contravention of the constitution because the purpose was not wholly a public one was not accepted by the court, which held that such power would be found in the city by implication.

The case of the City of Crawfordsville *vs.* Braden,[2] decided in 1891, is a leading one and has been frequently cited with approval. The court states the facts for decision in the question as follows: "has a municipal corporation in this State the power to erect, maintain, and operate the necessary buildings, machinery and appliances to light its streets, alleys and other public places with the electric-light, and at the same time and in connection therewith to supply electricity to its inhabitants for the lighting of their residences and places of business." The only statutory authority in point provided: "That the common council of any city in this State incorporated either under the general act for the incorporation of cities or under a special charter, and the board of trustees of all incorporated towns of this State, shall have the power to light the streets, alleys, and other public places of such city and town with the electric-light, or other form of light, and to contract

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alleys, and other public places with the electric-light, or other forms of light, on such terms, and for such time, not exceeding ten years as may be agreed upon." [1]

In holding that the city might furnish electricity to its inhabitants the court said: "Among the implied powers possessed by municipal corporations is the power to enact and enforce reasonable by-laws and ordinances for the protection of health, life and property. . . . The corporation possessing, as it does, the power to generate and distribute through its limits, electricity for the lighting of its streets and other public places, we can see no good reason why it may not also, at the same time, furnish it to the inhabitants to light their residences and places of business. To do so, is in our opinion, a legitimate exercise of the police power for the preservation of property and health. It is averred in the complaint that the light which the city proposes to furnish for individual use is the incandescent light. Here again is a fact of which we are authorized to take judicial knowledge. A light thus produced is safer to property, and more conducive to health than the ordinary light. Produced by the heating of a filament of carbon to the point of incandescence in a vacuum, there is nothing to set property on fire, or to consume the oxygen in the surrounding air, and thus render it less capable of sustaining life and preserving health." The court reached its decision notwithstanding the existence of a provision in the statutes authorizing the grant to any corporation of the right to erect and maintain in the streets the necessary poles and appliances for the purpose of supplying the electric or other light to the inhabitants.

This decision is the leading one on the subject that is

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reasoning of the court in doing so has met with approval by all the decisions which accept the doctrine of implied powers in this connection. The argument of the court is convincing, and although somewhat ingenious and novel when made, is now well recognized and has been advanced in later cases following this decision. And it is submitted that this case because of its reasoning goes further than the Federal case, above mentioned, in extending the sphere of municipal activity. It will also be noted that these cases are concerned with electric-lighting which is not so essentially a matter of public health as the furnishing of a water supply or a sewerage system, and which is of course a more modern public utility.

The promptness with which our courts extended the power of municipalities to include the employment of the modern agency of electricity for private purposes, after the advantages of using it for public lighting had been demonstrated, is the best evidence that they desire to extend the sphere of usefulness of our cities whenever the opportunity is given. The courts are of the opinion that it is not only within the power of the cities but that it is their duty to keep themselves free to accept for their own use and to provide for their inhabitants new inventions and superior agencies as they arise, and that cities are not to be restricted to the providing for the strict necessities of their citizens but that they may also minister to their comfort and pleasure.[1]

The police power serves as a more natural support to the decision of the case of McBean *vs.* City of Fresno,[2] where the action was to recover the contract price for services

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rendered in disposing of sewage for the defendant city. The court said in the course of its decision that, "proper sewers are in this day so essential to the hygiene and sanitation of a municipality that a court would not look to see whether a power to construct and maintain them had been granted by the charter, but rather only to see whether, by possibility the power had been expressly denied."

And to the same effect is Ellinwood *vs.* City of Reedsburg,[1] where the court says: "It is not necessary to seek for an express delegation of power to the city to build a waterworks and electric-lighting plant in order to determine whether such power exists, for the general power in respect to police regulations, the preservation of the public health, and the general welfare includes the power to use the usual means of carrying out such powers, which includes municipal water and lighting services."

In granting the power by implication to the city to furnish its inhabitants with electric-light because such action would be for their best interests and because it would be a municipal purpose, the supreme court of Florida in Jacksonville Electric Light Co. *vs.* City of Jacksonville,[2] decided in 1895, expressed this well established principle by saying: "The grant of power to the city of Jacksonville to provide for lighting the city by gas or other illuminating material, or in any other manner, is clear and explicit, and carries with it the power of the choice of means to accomplish the end. Should this power be construed into a right to light the streets and public places of the city, but not to supply the inhabitants thereof with light for use in their private houses? . . . We are of the opinion that a fair construction of the grant 'to provide for lighting the city by gas or other illuminating material, or in any other

[1] 91 Wis., 131. [2] 36 Fla., 229.

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manner,' will authorize the erection and maintenance of an electric-light plant, not only for lighting the streets and public places of the city, but also for supplying in connection therewith, electric light for the inhabitants of the city in their private houses. The power given is to light the city, and the connection indicates that the legislature was conferring powers for the benefit of the people generally of the city. . . . That the supplying the inhabitants of a city with electric-light is such a municipal purpose as will authorize its delegation by the legislature to municipal bodies is sustained by all the authorities we have found. To the extent of supplying light to the inhabitants of a city for use in their private houses, we discover nothing that cannot, in the light of the decisions, be called a municipal purpose. . . . "

The decision in the case of Heilbron *vs.* Mayor of Cuthbert,[1] rendered in 1895, is placed expressly on the general welfare clause of the charter. The court finds that: " Under the 9th section of the charter of the City of Cuthbert (Acts of 1859, p. 149) the mayor and council of that city have authority to ' contract and be contracted with; sue and be sued; . . . and do all things for the benefit of the city, and all things not in violation of the constitution and laws of this State.' It is apparent, therefore, that the ' general welfare clause ' in this charter is very broad and liberal in its terms. That the erection and maintenance of waterworks and of an electric-light plant would result in benefit to the city, is obvious. It was insisted, however, that in order to authorize a municipal corporation to contract a debt for improvements of this kind, the power to do so

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ment made in this case to the effect that the inhabitants as well as the city were to be supplied with water and electricity, this would seem to have been intended, from a remark found in connection with the statement of the facts of the case that, "this ordinance further provides that all revenue arising from the operation of the waterworks and light plant should be applied first to the expenses of their operation, etc." [1]

Among the more recent cases permitting cities to provide their citizens with electric light in their private capacity in the absence of any express legislative authority is that of Fawcett *vs.* Mt. Airy,[2] decided in 1903. This case argues the question in issue at length, and indicates the favorable attitude which is taken towards increasing the opportunities for cities to serve their citizens with the comforts and pleasures as well as the necessities of life. It also shows that our courts recognize the fact that with the advance of civilization the increase of population and its congestion in municipalities, making competition more keen and living more strenuous, what were at one time regarded as luxuries become comforts and are later looked upon as necessities. The case also criticises the Massachusetts court for refusing to imply this power in municipalities to provide its citizens with these public utilities although it had held the purchase by them of town clocks, scales, etc., to be a necessary expense. Because of its importance, we quote it at considerable length. "Whether a city or town has the right to incur an indebtedness for the erection and operation of plants for the supply of water and electric light for municipal use, and to sell to its inhabitants, as a necessary municipal expense, is the question again presented to us

[1] See also Mayor, etc., of Rome *vs.* Cabot, 28 Ga., 50.

[2] 134 N. C., 125.

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for decision. Indebtedness incurred by a city or town for a supply of water stands on the same footing as indebtedness incurred for lighting purposes, and if such indebtedness be a necessary expense, then whether or not a municipality may incur it does not depend upon the approval of the proposition by a majority of the qualified voters of the municipality. . . . It is almost impossible to define, in legal phraseology, the meaning of the words 'necessary expense,' as applied to the wants of a city or town government. A precise line cannot be drawn between what are and what are not such expenses. The consequence is that, as municipalities grow in wealth and population, as civilization advances with the habits and customs of necessary changes, the aid of the courts is constantly invoked to make decisions on this subject. In the nature of things it could not be otherwise; and it is not to be expected, in the changed conditions which occur in the lives of progressive people, that things deemed unnecessary in the government of municipal corporations in one age should be so considered for all future time. In the efforts of the courts to check extravagance and to prevent corruption in the government of towns and cities, the judicial branch of the government has probably stood by former decisions from too conservative a standpoint, and thereby obstructed the advance of business ideas which would be most beneficial if put into operation; and this conservatism of the courts, outgrown by the march of progress sometimes appears at a serious disadvantage. . . . and certainly expenses incurred for water and light are more necessary than those for a market house, clocks, and scales. The words 'necessary expense,' then, must mean such expenses as are or may be incurred in the establishing and procuring of those things without which the peace and order of the community, its moral interests, and the protection of its property and that of the property

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and persons of its inhabitants, would seriously suffer considerable damage. . . . If the matter of lighting is a necessary expense, then how and in what manner the city shall furnish such lighting is with the authorities of the city or town to determine. . . . Our conclusion, then, is that an expense incurred by a city or town for the purpose of building and operating plants to furnish water and lights is a necessary expense. . . ." [1]

The provision of an adequate water supply for the use of the city and its inhabitants is directly concerned with its health in addition to being a municipal purpose and for the general welfare. This public utility has always been recognized as necessary for the public health and convenience and the authorities agree that it is the duty of the city to provide a water supply for protection against fire. That an adequate supply of pure water for the citizens of a large city is a necessity which can be provided only by a responsible public or quasi-public corporation is generally admitted. As compared with electricity, the question of a water supply is much older and the law, permitting cities to furnish water from their own plant to their citizens along with providing for the public wants, has become firmly established. In practice it seems to have been very generally assumed that the erection and operation of a water-works system is a municipal purpose and that the city is expected to furnish it for private use along with attending to the public demand. The courts have recognized the economy of doing this as well as the fact that it tends to the protection of health, life, and property and is therefore a legitimate exercise of the police power.[2]

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A good case expressing the law of this subject is that of Smith *vs.* Nashville,[1] where the only statute in point gave the mayor and city council the power "to provide the city with water by waterworks, within or beyond the boundaries of the city, and to provide for the prevention and extinguishment of fires, and to organize and establish fire companies."[2] In the course of its well reasoned decision the court says: "It is seen at once that the waterworks are corporate property; that is not denied. The debate is with respect to the nature of the use. As to that, for the sake of convenience we divide all the purposes for which the city furnishes water into three classes: (1) to extinguish fires and sprinkle the streets; (2) to supply citizens of the city; (3) to supply persons and factories adjacent to but beyond the corporate limits.

If the business were confined to the first class, there would be no ground to base a discussion upon, so clearly would the use be exclusively for public advantage. We think there can be but little more doubt about the second class, especially in view of certain words in the city charter, to which we will advert presently. Nothing should be of greater concern to a municipal corporation than the preservation of the good health of the inhabitants; nothing can be more conducive to that end than a regular and sufficient supply of wholesome water, which common observation teaches all men can be furnished, in a populous city, only through the instrumentality of well equipped waterworks. Hence for a city to meet such a demand is to perform a public act and confer a public blessing. It is not a strictly

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but it is very close akin to it, and should always be recognized as within the scope of its authority, unless excluded by positive law. Here the first clause [of the statute quoted *supra*], 'to provide the city with water by waterworks' is very broad and comprehensive, and was obviously intended to authorize the corporation to furnish the inhabitants of the city with water. Having accepted the charter and undertaken to exercise this authority in the manner detailed by the witness, it cannot be held that the city, in doing so, is engaging in a private enterprise or performing a municipal function for a private end."

As to the power of a city to supply parties with water beyond its boundaries this Tennessee case is supplemented by that of Lawrence *vs.* Methuen [1] where an injunction to prevent this was refused. In order to show the friendly attitude of this court toward cities as business concerns we quote from the decision as follows: "In practice it must often be a great convenience for persons owning and occupying land extending across the boundary line between two municipalities to take water from one or the other for use on the whole land; and to compel such persons to distinguish between the parts of the premises in each municipality on which the water is used, and to confine the use of the water to the part within the municipality from whose works the water is taken, would impose artificial restraints upon such owners in the use of property which could be justified only by language clearly expressing an intention to accomplish such a result, and we find no such language in St. 1892, c. 310."

These authorities, then, will serve to support the principle so far as it is based on the doctrine of implied powers that

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given, permit municipal corporations in connection with supplying their public wants for gas, water and electric-light services to furnish these utilities for the private use of their inhabitants. This privilege is found by implication, it is to be noted, only in case it is to be exercised in connection with supplying the public wants; and while most of our courts do not expressly give as a reason for their holdings the economy of such an arrangement, it is submitted that this is a controlling idea underlying their decisions, and expressly given in some of them.[1] This fact becomes more apparent when it is remembered that these are matters concerned with natural monopolies which render competition in practice not only inexpedient but practically impossible. This subject, however, together with the necessity for greater control in the absence of the restraints of competition will be discussed at length later.

A few courts take issue with this very reasonable principle of law which is well established by the great weight of authority and hold that, while the power to light the streets and public places of a city by electricity authorizes the erection and maintenance of a plant for that purpose, it may not be used for supplying light to private individuals. These adverse decisions are confined to the matter of furnishing electric light, which, of course, is comparatively a very modern public utility, and some of them, at least, can be distinguished from those already discussed and shown not to be actually conflicting authorities.

One of the leading cases which is apparently opposed to the principle in question is that of Mauldin *vs.* Greenville,[2] decided in 1899, in which the court granted an injunction

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ing an electric-light plant, so far as it was concerned with supplying private residences. The court admits that there is no power expressly given the city to provide itself with light for public purposes. This decision, therefore, cannot be said to oppose the doctrine that where the city has the power expressly given to furnish light for city use it may as incidental to such use and in connection therewith extend the service to private parties. That is to say, in this case the statute fails to grant power in the city to furnish light for any purpose and in any way, so that the court is not passing on the question under discussion in the former cases.

In this case the court expressed itself as follows: "Clearly, the charter does not give the power to purchase this plant in express words. It does not so give even the power to light the City, but we assume that this latter power may be fairly implied from the grant of the police power. . . . This seems to be a new question. It strikes us as remarkable that, in the multitude of cases cited by the distinguished counsel who argued the case, there should not be in one of them the least reference to this precise point. We have made diligent search, and have not been able to find one. We must decide it, but without any help from authorities. The City has the express power to own property, and it also has the implied right to light the City. Do these powers necessarily imply the right to make the City the owner of the plant and a manufacturer of electricity? It is quite certain that such power is not 'essential' to the declared objects and purposes of the corporation. . . . But considering that some discretion, as to the mode and manner, should be allowed the municipality, in carrying out the conceded power to light the streets of the City, we hold that the purchase of the plant was not *ultra vires* and void, so far as it was designed to produce electricity suitable for and

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used in lighting the streets and public buildings of the City. But we cannot so hold as to the purchase of so much of that plant as furnished the incandescent light for use in the interior of private residences and places of business, which cannot be properly included within the power to light the streets of the City. . . . As we understand it, all the powers given to the City Council were for the sole and exclusive purpose of government, and not to enter into private business of any kind, outside of the scope of the city goernment."

This case, then, in refusing the right of the city to accommodate its citizens with modern lighting service for their private use was confessedly decided without the aid of authorities and at most involves the construction of powers existing by implication only to provide for public lighting. While the spirit of the case is hostile it cannot be said to be an authority in conflict with the line of decisions above discussed, for they involve the extension of the authority expressly given the city to provide these public utilities for its own wants, and together therewith those of its citizens who desire to avail themselves of the opportunity and are willing to pay therefor. It is further submitted that the decision is not sound and that the court was in error in saying that "all the powers given to the City Council were for the sole and exclusive purpose of government." There can be no question under the law that the powers of municipalities are much broader than this, as common observation shows must be the case in practice.

In referring to this case the court of Nebraska in Christensen *vs.* City of Fremont,[1] decided in 1895, said, "that while the power to light the streets authorizes the erection

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not authorize one for supplying light to private buildings." The court then goes on to admit that "the act of 1889. . . extends the grant of power to the purpose in question," saying: "We have, thus, elaborated on the grant of powers because the conclusions reached convince us that in the absence of the act of 1889 the city could not have devoted any revenue to the purpose of maintaining a plant to furnish light for private consumers." This case, then, is not an authority in conflict with the principle under discussion for the reason that the decision was made six years after the passage of an act expressly permitting the city to serve its inhabitants with electric light, which act was recognized by the decision as having this effect on the case. These expressions of the court on the subject are mere dicta, having no force of law whatever and were not necessary or proper in the decision, for they are directly contrary to what the court admits to be the law.

In the case of Spaulding *vs.* Town of Peabody,[1] the court denies the defendant the right to furnish light to its inhabitants in the absence of any express statutory power in connection with supplying the streets and public places of the city. The court in this case fails to follow its earlier decisions holding that the providing of clocks, scales and the like is a public purpose and within the inherent power of cities. It can hardly be successfully maintained that the supply of light and heat by the municipality for the private wants of citizens in connection with its plant for supplying the public needs is any less a public purpose than the providing of town clocks, scales, and pumps, nor that the convenience and comfort of its citizens would require the one and not the other. In fact, experience shows that in crowded city life electric light and gas as well as a

[1] 153 Mass., 129.

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wholesome supply of water in private houses and places of business are practically necessities, and there can be no doubt that the adequate supply of such public utilities tends very materially to the preservation of public health and peace and to the protection of property. This court had found that the supply of water by a waterworks system is a public purpose and also had conceded that the Legislature has unquestioned power to permit cities to provide gas or electric-light for the private use of its citizens.[1]

In refusing to find such power by implication the court says: "It is wholly for the Legislature to determine, within the limitations of the Constitution, the powers which towns shall possess, and when it appears that the custom of the Legislature has been specifically to define from time to time the purposes for which towns may raise money by the taxation of their inhabitants, and when the Legislature can at any time grant additional powers if they are deemed necessary, a somewhat strict construction of existing statutes seems reasonable, and in accordance with the presumed intention of the Legislature. . . . The subject of constructing and maintaining gas or electric works for the manufacture of gas or electricity and the distribution thereof through the streets of towns and cities, for the purpose of furnishing light is one of too much importance to be attached as a mere incident to the power given to erect and maintain street lamps, and we think that if the Legislature had intended that towns generally should have authority to erect and maintain such works, the authority would have been plainly expressed in the statutes. . . . . "

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New England are peculiar in that power must be given them expressly and that money can be raised by taxation only for purposes expressed in the statute or incidental to such purposes.[1] With this in mind it will be seen that the case just mentioned is not applicable to, or binding on, our courts generally for an examination of our city charters will disclose no attempt at such detailed legislation as was found binding on this particular court.

It is of interest to note that after this decision was handed down, January 12, 1891, the Legislature promptly acted upon the suggestion made in the case, and passed a general act, which was approved June 4, 1891, giving any city or town the power to construct, purchase or lease, and maintain within its limits one or more plants for the manufacture and distribution of gas or electricity for furnishing light for the municipal use, or light, heat or power, except for the operation of electric cars, for the use of its inhabitants.[2] This act was passed pursuant to the Opinion of the Justices,[3] rendered May 27, 1890, in which the court, in response to the question propounded to it by the Legislature, stated that it was within the province of that body to confer upon towns and cities the power to manufacture and distribute gas or electricity for the use of their inhabitants.

The appellate court of Illinois in Village of Ladd *vs.* Jones,[4] decided in 1895, in refusing recovery for electric lighting furnished under an ordinance by the plaintiff city to one of its inhabitants for private use, took the position that such city acted without authority in furnishing such light because such power had not been expressly granted

[1] Dillon, *Municipal Corporations*, sec. 30.

[2] Statutes of Massachusetts, 1891, c. 372.

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to it, and expressed itself to the effect that, " powers granted to cities and villages by Legislative grant must be strictly construed." It is to be regretted that the case is not discussed more at length so that the reason for the decision might more clearly appear, and also that this question has not been passed upon by the supreme court of the State. In the case of Blanchard *vs.* Village of Benton,[1] this same court in 1903 indicates that it is still of the opinion expressed in the former case.

The Supreme Court of New Jersey in Howell *vs.* Millville,[2] decided in 1896, even denies that an act " authorizing the lighting of public streets, and places in the cities, towns, townships, boroughs, and villages of the State and to erect and maintain the proper appliances, etc.," gives the power to a municipality to erect and maintain an electric-light plant to light its streets. It is submitted that in view of this express statute the case in refusing to find auhority for the city to erect and maintain an electric-light plant, for supplying the public wants, is unsound in its reasoning and so narrow in its construction as not only to fail to give effect to the intention of the legislature, but virtually to annul the enactment. The case is unsupported by authorities and does not represent the attitude of our courts outside of the particular jurisdiction.

Finally a California case decided in February, 1906, Hyatt *vs.* Williams,[3] also refuses to accept the doctrine of implied powers in this connection. It says: " The terms of the express grant of the power to provide light for the public purposes named do not indicate any intention to give the distinct and larger power to establish a plan for furnishing light for private use to all the inhabitants of the city who

[1] 109 Ill. App., 569.

[2] 60 N. J. L., 95.

[3] 84 Pac., 41.

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may desire it, and no such intention can be imputed to the framers of the charter from the language there employed. . . . The question whether or not, if the city had erected or should erect a plant to supply electric light for the public streets, public places, and public buildings, it would have power to distribute any surplus thereof to the inhabitants for private use does not arise in the case." In the course of this rather arbitrary decision the court unfortunately speaks only very briefly of the reasons for holding that the power of the municipality must be so limited; and no case is discussed or even cited and no authority whatever is referred to except the general definition of the powers of municipal corporations formulated by Judge Dillon over forty years before and probably twenty years before electricity was thought of for lighting purposes as it is now enjoyed.

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CHAPTER V

What are Municipal Purposes Within the Meaning of the Constitution

The attitude of our courts in their construction of constitutional limitations on powers vested in cities by statutory enactment when such authority is attacked on the theory that the expenditure of money in carrying out such powers would be illegal and beyond the powers of municipalities also favors an increase of the sphere of municipal activity. This line of decisions is not concerned with the doctrine of the implied powers of municipal corporations but with construing their statutory powers within the meaning of the Constitution in order to determine what are municipal purposes for the support of which the people may be required to pay by taxation. Although any abuse of authority which causes the imposition of taxation without right has been jealously guarded against by our courts as a violation of one of the very first and most fundamental of principles since the day of Magna Charta, it is submitted the authorities show that our courts have been very liberal in extending the meaning of the term, "municipal purpose," so as to permit our cities promptly to take advantage of new inventions and modern conveniences for their inhabitants.

The case of Hequembourg *vs.* City of Dunkirk,[1] decided in 1888, was an action to enjoin the defendant city from constructing an electric-light plant. The question decided by this case is whether the issuing of bonds to establish an

[1] 49 Hun, 550.

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electric-light system for the purpose of supplying the said city and its inhabitants with electricity is in violation of article 8, section 11 of the Constitution, which provides that "no county, city, town or village shall hereafter give any money, . . . nor shall any such county, city, town or village be allowed to incur any indebtedness, except for county, city, town or village purposes." In refusing to enjoin the erection of the plant the court held that furnishing electricity for the private use of the citizens was the performance of a municipal purpose when done in connection with the ownership and operation of the plant for supplying the public needs of the city, saying in part: "We think it may safely be assumed that the lighting of the streets and public places is one of the duties devolving upon the municipal government, and is a city purpose within the provisions of the Constitution. What is and what is not a municipal purpose is, in many cases, doubtful and uncertain, and it is the duty of the courts in such cases to give weight to the legislative determination and not to annul its acts, unless it clearly appears that the act was not authorized. . . . If we are correct in this view, we fail to see why gas or electric light works may not be sanctioned on the same theory. The lighting of the streets by gas involves the necessity of laying mains through the streets, with which the lamps may be supplied with gas; and, in lighting by electricity, the stringing of wires or the laying of conduits, through which the electricity may be conveyed. Light in dwellings is as important and essential as upon the streets, and promotes the general comfort, safety and welfare of the inhabitants; and when it is supplied in connection with that which is furnished by the municipality, under its duty to the public, we think it may be regarded as an incident thereto, and one of the purposes for which the municipality may properly contract."

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The case of The People ex rel. Murphy *vs.* Kelly,[1] decided in 1879, is a leading one and indicates the liberal policy of the courts in this connection to be one of long standing. In the course of its decision, finding that the cities concerned had the power to erect the Brooklyn bridge, the court said: "Having nothing to say about the wisdom of the legislation under consideration, I am confident in the conclusion that the construction of this bridge is a city purpose of each city, and that each city can incur debt for the same, and that the act of 1875 is not in conflict with any provisions of the constitution."

The case of Sun Publishing Ass'n. *vs.* Mayor,[2] is of special interest as showing the attitude of the court with reference to the increasing and elastic powers belonging to municipal corporations. The court defined its position on the question clearly and frankly as follows: "The question is then raised whether a rapid transit railroad, wholly within the limits of a city, is a city purpose. . . . In considering this question it must be premised that cities are not limited to providing for the strict necessities of their citizens. Under legislative authority, they may minister to their comfort, health, pleasure, or education. . . . To hold that the Legislature of this State, acting as the *parens patriæ,* may employ for the relief or welfare of the inhabitants of the cities of the State only those methods and agencies which have proved adequate in the past would be a narrow and dangerous interpretation to put upon the fundamental law. No such interpretation has thus far been placed upon the organic law by the courts of this State. Whenever the question has been considered, it has been universally treated in the broadest spirit. . . . The true

[1] 76 N. Y., 475.

[2] 8 App. Div. (N. Y.), 230; affirmed 152 N. Y., 257.

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test is that which requires that the work shall be essentially public and for the general good of all the inhabitants of the city. It must not be undertaken merely for gain or for private objects. Gain or loss may incidentally follow, but the purpose must be primarily to satisfy the need or contribute to the convenience of the people of the city at large. Within that sphere of action, novelty should impose no veto. Should some inventive genius by and by create a system for supplying us with pure air, will the representatives of the people be powerless to utilize it in the great cities of the State, however extreme the want and dangerous the delay? Will it then be said that pure air is not so important as pure water and clear light? We apprehend not."

The New York Supreme Court reiterated in 1900 its favorable attitude toward the increase of the sphere of municipal activity in the case of Parsons *vs.* Van Wyck.[1] In this case it refused relief on an action brought by a taxpayer to restrain an alleged unlawful expenditure of municipal funds by the defendants, who were members of the Soldiers' and Sailors' Memorial Arch Commission of the City of New York provided for by chapter 522 of the Laws of 1893, and were engaged in erecting a proposed memorial monument in Riverside Park near Eighty-ninth Street. The court stated its decision after referring to other similar cases by saying, "In the same liberal spirit, we think the erection of a beautiful monument or memorial is serving a public purpose."

In the case of Townsend *vs.* City of Boston,[2] decided in 1905, the Supreme Court of Massachusetts recognized and held to be valid a statute under which the city of Boston owned and operated a certain ferry. The case was

[1] 56 App. Div. (N. Y.), 329.

[2] 187 Mass., 283.

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an action in tort for personal injuries sustained by the plaintiff to the action while a passenger on a ferry boat which the defendant city owned and was operating.

In the Opinion of the Justices,[1] as given in 1890, in reply to certain questions submitted to the court by the Legislature, it is held that, if the Legislature be of the opinion that the general welfare and convenience of the inhabitants of municipalities will be promoted by giving the cities the power of furnishing them with gas or electricity for light, such power may be so conferred within the Constitution. In the course of its opinion the court said that: "The statutes are well known which authorize cities and towns to maintain waterworks for supplying their inhabitants with water, and the constitutionality of these statutes has not been doubted." The court defines the limitation to be placed on this power in Opinion of the Justices,[2] in refusing the right of the Legislature within the Constitution to confer on municipalities the power to purchase and to furnish coal and wood for fuel to its inhabitants because the carrying on of such a business for the public benefit could not be regarded as a public or municipal service.

The case of Middleton *vs.* St. Augustine,[3] decided in 1900, holds that under the Constitution of that State the Legislature can authorize municipal corporations to erect and own electric-light plants for supplying lights to their citizens and to issue bonds for such purpose, either with or without the sanction of its individual citizens or taxpayers because the purpose is municipal. To the same effect is the case of Greensboro *vs.* Scott,[4] decided in 1905. In this case the court held valid the issue of bonds to pro-

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system and for the grading and paving of its streets. The case of Newport *vs.* Unity,[1] which was decided in 1896, holds to this same rule of law for that State. In the case of State ex rel. *vs.* Allen,[2] decided in 1903, the power by virtue of statutory enactment is recognized in the city to own and operate an electric plant for the use of the city and its inhabitants because its purpose is public. The case of Hazlehurst *vs.* Mayes,[3] in 1904 decided this to be the law in the state of Mississippi.

The case of Mealy *vs.* Hagerstown,[4] decided in 1901, states this well established rule of law as follows: "It [the defendant city] is certainly authorized to provide for lighting the streets and other public places within the corporate limits. We do not understand it to be seriously questioned that it can furnish light to its citizens, if the act of 1900 is valid. There are many cases which establish the right of a municipality, owning its plant for lighting, to provide light to its citizens just as it may supply them with water, if the legislature so authorizes."

The case of State ex rel. *vs.* City of Toledo,[5] decided in 1891, is of special interest because it refused to enjoin the defendant city from supplying natural gas for its public use and the private use of its inhabitants. The very clear and common-sense reasoning of the court follows: "Taxation implies an imposition for a public use. . . . But what are public purposes is a question that must be left to the legislature, to be decided upon its own judgment and discretion. Water, light and heat are objects of prime necessity. Their use is general and universal. It is now well settled that the legislature in the exercise of its constitutional power

[1] 68 N. H., 587.
[2] 178 Mo., 555.
[3] 84 Miss., 7.
[4] 92 Md., 741.

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may authorize cities to approprate real estate for waterworks, etc. What we have said in reference to waterworks is for the most part applicable to the erecting and maintaining of natural or artificial gas works. Heat being an agent or principle indispensable to the health, comfort and convenience of every inhabitant of our cities, we do not see why through the medium of natural gas, it may not be as much a public service to furnish it to the citizens as to furnish water. It is sufficient if every inhabitant who is so situated that he can use it, has the same right to use it as the other inhabitants. The establishmment of natural gasworks by municipal corporations, with the imposition of taxes to pay the cost thereof, may be a new object of municipal policy; but in deciding whether in a given case the object for which taxes are assessed is a public or a private purpose, we cannot leave out of view the progress of society, the change of manners and customs and the development and growth of new wants, natural and artificial, which may from time to time call for a new exercise of legislative power; and in deciding whether such taxes shall be levied for the new purposes that have arisen we should not, we think, be bound by an inexorable rule that would embrace only those objects for which taxes have been customarily and by long course of legislation levied." The validity of this Ohio Statute giving municipal corporations the power to supply their inhabitants with gas was sustained by the Supreme Court of the United States, in the case of Hamilton Gaslight & Coke Co. *vs.* Hamilton City.[1]

Finally Judge Cooley in his excellent work on Taxation [illegible]

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large towns, is not disputed. . . . Cities may also be authorized to construct gasworks in order to furnish their citizens with light as well as to supply the corporate needs. . . . " The principle laid down by the cases above referred to and others, is stated in 10 American and English Encyclopaedia of Law, p. 865, as follows: " It is generally agreed that the legislature has the power to authorize a municipality to own and operate an electric-light plant which shall furnish not only the lights needed by the municipality for lighting the streets and public places, but lights to the inhabitants for their private purposes." [1]

[1] See also the cases of Mitchell *vs.* City of Negaunee, 113 Mich., 359; Linn *vs.* Borough of Chambersburg, 160 Pa., 511; Levis *vs.* City of Newton, 75 Fed., 884; Norwich Gas and Electric Co. *vs.* Norwich, 76 Conn., 565.

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CHAPTER VI

Exemption from Taxation of Municipal Property Used for Supplying Public Utilities

The facility with which a municipal corporation may increase its sphere of activity by assuming the operation of public utilities is largely affected by the attitude of the government towards the property devoted to these purposes as expressed in the law with regard to their taxation. For even where taxes are imposed with the single idea of securing revenue, which of course is usually the case, a municipality whose waterworks or other public utilities owned and operated by it are not subject to either federal, state, or local taxation can perform the desired service much more easily than it could were such property subject to taxation. The attitude of the courts with regard to the taxation of municipal property has therefore an important bearing on the subject under consideration.

This subject may be treated from the point of view of constitutional power and from that of judicial construction of existing statutes. Since the decision of the United States Supreme Court in the case of South Carolina *vs.* United States,[1] it must be accepted as the law that the United States government has the power to tax all business undertakings of municipal corporations. In this case it was held that the state dispensaries for the sale of liquor

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There is also no doubt as to the power of the states under the ordinary state constitutions to tax the property of municipal corporations. But generally such constitutional provisions do not require the taxation of even what is regarded as the private property of municipal corporations. The court of Kentucky however has taken the other view of the constitution of that state.[1]

When we consider the law as laid down by the courts in the absence of pertinent constitutional provision, we must distinguish between the property of municipal corporations which is used for a distinctly governmental purpose and that which is used in connection with the operation by such corporations of a municipal public utility.

The rule of law is universally accepted by all our courts to the effect that public property and the instrumentalities of government, whether pertaining to the federal, state, or municipal government, which are held for public or governmental purposes, are not, in the absence of a statute to that effect, subject to taxation. Although this immunity from taxation is generally confirmed expressly by constitutional provisions or statutory grants it is based on one of the most fundamental principles of government and good business methods and, in the absence of any express provision, is implied by our courts from the necessity of preventing the functions and activities of government from being interfered with or impeded. This principle is strictly adhered to for the further practical purpose of avoiding the useless and inconsistent formality of permitting the government to tax itself to pay itself money which could only be finally secured by other taxation.[2] It is evident that no benefit could accrue from such a proceeding except to

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the taxing officers whose compensation would simply add so much more to the net amount necessary to be raised for the support of the government.[1]

While the authorities are uniform in exempting from taxation by implication property held and used by the municipality for public and governmental purposes, all the courts cannot be said to be of the opinion that property of municipal corporations which is used by them in their private business capacity in furnishing such public utilities as gas, water and electric light is entitled to such exemption. In fact as has been said the court of one jurisdiction has held a statute expressly exempting such property from taxation to be unconstitutional.[2]

It is submitted, however, that, if within the meaning of the constitution, the provision of these utilities is a public purpose and the property so used is devoted to a public trust, for the acquisition of which money may be raised by taxation because the purpose is a public or municipal one, the property so acquired and used should be entitled to exemption from taxation the same as other city property. As a matter of reason if the purpose is such a municipal one that these plants of the city providing public utilities may be acquired and maintained by taxation, it remains public or municipal from the point of view of the law of taxation; and as a practical business principle the taxing of such property which is acquired and maintained wholly at the public expense by taxation, except as some revenue may be derived from its use and operation, is simply taxing the property of the city for its own support with the necessary result that nothing of any net value to the city is acquired to

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Nor should the fact that revenue may be derived from the operation of such plants by the city change the principle of their exemption from taxation, for in no sense can that fact alter the nature of the use to which such property is put nor the purpose accomplished by such use. And this is the test of its being a proper subject of support by taxation and of exemption from taxation. That revenue may be realized from such plants, tending to make them self-supporting, is no reason for subjecting them to the payment by taxation for their own support and that of the government to which they belong. This incidental matter of revenue does not change the nature of the use or purpose of such property from a public governmental one to one that is private and conducted for the sole purpose of pecuniary profit and so liable to taxation, as is contended in some of the cases to which reference will be made.

That public property yielding revenue is not a proper subject for taxation on that account is well illustrated in the case of People ex rel. *vs.* Assessor of City of Brooklyn,[1] where the court passed upon the matter of the right of the defendant city to tax property within its limits belonging to the city of New York and used by such city for a landing-place for its ferry which was being operated between the two cities. The reasoning of the court in refusing such right of taxation follows: "We think the landing-place was not taxable, upon the principle that property used for public purposes, is not a taxable subject, within the purview of the tax laws, unless specially included. . . . There would be manifest incongruity in subjecting to taxation for public purposes property dedicated to or acquired under legislative authority for public and governmental use. . . . . The fact that the city of New York operates the ferry

[1] 111 N. Y., 505.

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through lessees, and derives its revenue from the rental, and not from the operation of the ferry by its immediate agents and servants does not make the franchise or the landing taxable. . . . The tax is imposed on the land as the property of the city, and not on the lessees in respect of their interest."

To this same effect is the case of City of Somerville *vs.* City of Waltham,[1] which is of interest for the further reason that it assists in defining the scope of the term "municipal purpose" in connection with this matter of taxation. The court said, "There is nothing in our statutes to prevent a city or town from acquiring by purchase land in another city or town for municipal purposes, if it is necessary or expedient for the interests of its inhabitants to do so. . . . While there is no specific exemption from taxation in Pub. st. c. 11, sec. 5, of the property of counties or municipal corporations, yet it is well settled that such property, when appropriated to public uses, is exempt from taxation. . . . As the land in question was purchased for the purpose of obtaining therefrom gravel for the construction and repair of streets in the plaintiff city, and has since been used for that purpose, we have no doubt that it is appropriated to public use, and is exempt from taxation."

But that property which had been purchased for the purpose of some time being used for enlarging the jail in a certain town, but which had not been actually appropriated to that purpose but was being rented to private parties, will not be held exempt from taxation by implication, because it was not devoted to a public use, was held in the case of Inhabitants of County of Essex *vs.* City of Salem.[2] In this case the court stated this limitation on the general

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absence of any express exemption of the property of counties from taxation, an exemption can be implied only when the property is actually appropriated to public use."

With reference specially to the matter of the exemption from taxation of municipal property devoted to the supplying of such public utilities as gas, water and electric light for the city and its citizens the following cases are given to illustrate the principle of law involved. The case of Wayland *vs.* County Commissioners,[1] in 1855, decided that lands taken by the city of Boston under an act [2] for supplying that city with water were not liable to taxation within such city. The court indicated its position by saying: "Regarding this land as taken and holden for the public use, and the buildings erected upon it as necessarily incident to such use, they are both to be held public works, and as such exempted from taxation. . . . It can only be on the ground that this land was taken for public uses, that the exercise of the right of eminent domain by the government can be justified. . . . It would be difficult, we think, to find any class of cases in which the right of eminent domain is more justly or wisely exercised than in provisions to supply our crowded towns and cities with pure water—provisions equally necessary to the health and safety of the people."

This principle, which is firmly established in the law and good sense and good business principles, was clearly enunciated by the court of New York in 1880 in the case of Rochester *vs.* Town of Rush,[3] as follows: "The property assessed forms a part of a system of waterworks, imposed upon the city of Rochester by direct legislative enactment . . . for the use of its inhabitants, and the extinguishment of fires . . . and the work undertaken in pursuance of its

[1] 4 Gray, 500. [2] Statutes, Massachusetts, 1846, c. 167.
[3] 80 N. Y., 302.

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directions must be regarded as executed for the public good, and the property therefore held for public purposes. It is itself the result or product of taxation. It stands in the place of the money so raised, and therefore cannot be taken or diminished by taxation. This is clearly so upon principle, but it is also well settled by authority. . . . I am unable to perceive that in any sense the waterworks can be regarded as the private property of the city as distinguished from property held by it for public use. These considerations lead to the opinion that the property was not taxable, and that the proceedings on the part of the assessors of the town of Rush, in regard thereto, cannot be sustained."

This case represents the great weight of the authority on this subject and its reasoning has commended itself to almost all our courts. In so far, however, as the court refused the right of one municipality to tax the property of another within its limits although devoted to such a public use as the furnishing of water to its inhabitants, the law of this jurisdiction has been changed expressly by statute as appears from the case of People ex rel. *vs.* Hess,[1] which decided in 1898 that the property belonging to the waterworks system of the relator, the city of Amsterdam, located in the town of Perth was subject to taxation. The court explains its decision by saying: "It is conceded that prior to this statute,[2] the property assessed was not liable to taxation, as it was held by a municipal corporation for public use. This exemption rested on no statutory provision, but upon a principle of the common law supported by numerous cases in England and this country. We are of the opinion the Tax Law of 1896 has changed this rule and

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but located beyond the boundaries of the municipality is subject to general taxation."

This limitation on the immunity from taxation of municipal waterworks property as made expressly by statute was fully accepted as binding on the court. The right of the legislature to tax such property of the municipality has not been doubted, although the expediency of doing so for the general purposes of taxation may be open to question. Where a large portion of such property is within the limits of another town or city the courts, under statutory provision for doing so, concede that the latter taxing district is entitled to revenue from such property in the form of taxes and the cases of Newport *vs.* Unity,[1] and Miller *vs.* Fitchburg,[2] so hold. This same limitation would seem to have been intended by the statute of New Jersey and accepted by the court in its decision of this question in State, Water Commissioners of Jersey City *vs.* Gaffney.[3] The statute in question provided that, "All real estate belonging to the mayor and common council of Jersey City, and held within the county of Hudson for purposes connected with the works for supplying said city with water shall hereafter be exempt from taxation." In holding such property within said county not liable for taxation the court said, "it is true that the property was not in actual use when the assessment was made, but there was then no indication of any abandonment of the purpose to use it for a reservoir; on the contrary, it is clear that it was held for that necessary purpose, and without being used for any other."

The general exemption of such property without any limitation as to location was allowed as early as 1877 in the case of Town of West Hartford *vs.* Board of Water Com-

[1] 68 N. H., 587.
[2] 180 Mass., 32.
[3] 34 N. J. L., 131.

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missioners,[1] and this rule seems to prevail still in the particular jurisdiction. The action arose out of an attempt on the part of the plaintiff municipality to tax that part of the waterworks property of the City of Hartford which was within the territory of the former city. In refusing this right the court said: "The [defendant] Board of Water Commissioners were authorized by the legislature to purchase and hold land in the town of West Hartford for the purpose of storing and carrying it thence to the city of Hartford for the use of its inhabitants. . . . Money in the keeping of a municipality as the result of the exercise of its power of taxation, for one public use, is not to be made to pay tribute to another public use. It has ceased to be taxable property in any legislative or judicial sense. The introduction of a supply of water for the preservation of the health of its inhabitants by the city of Hartford is unquestionably . . . for the public good in the judicial sense of that term; not indeed as the discharge of one of the few governmental duties imposed upon it, but as ranking next in order. . . . Besides the fact that rents at the present time are sufficient to pay the annual charges may be only a fortunate occurrence; this state of things may not continue [and does not make its property subject to taxation]."

The same principle was established by the court of Ohio in 1894 in the case of the City of Toledo *vs.* Yeager,[2] as applied to a municipal gas plant. The Constitution of that State provided that, "public property used exclusively for any public purpose may by general laws be exempted from taxation." After finding the use of this property to be public on the authority of the decision of the case of State ex rel. *vs.* City of Toledo,[3] the court held that under the

[1] 44 Conn., 360. [2] 8 Ohio Cir. Ct. Rep., 318. [3] 48 Ohio St., 112.

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authority of this case the legislature had the authority to exempt this property from taxation and that it had done so. The court concluded its decision by saying: "The evidence shows this property to be devoted to the very purposes which are named in the statute, and which the Supreme Court has declared to be public purposes."

In 1903 this principle of exemption was clearly and fully enunciated by the court of Kansas in the case of Sumner Co. *vs.* Wellington,[1] where the following language was used: "The supplying of water to the inhabitants while not strictly a governmental function so much affects the health and welfare of the people as to be closely akin to it. . . . The ownership and the purpose being public, there are good reasons why the property should be exempted from taxation. . . . The Statute makes public ownership of property the ground of immunity from taxation, and as the plant in question is absolutely owned by the city, it is strictly within the terms of that exemption. The fact that, in establishing and carrying on a system of waterworks, the city furnishes water to citizens and consumers for rental charges, does not make it a mere business enterprise nor does it affect the exemption. The earnings derived from the water furnished for domestic use and to consumers is, as we have seen, paid into the city treasury, and used in carrying on the city government and thus inures to the benefit of the people of the municipality."

To the same effect is the case of Smith *vs.* Nashville,[2] where the court in upholding the exemption of the property of the municipal waterworks from taxation said: "To provide the city with waterworks is very broad and comprehensive and was obviously intended to authorize the corporation to furnish the inhabitants of the city with water. Having

[1] 66 Kan., 590. [2] 88 Tenn., 464.

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accepted the charter, and undertaken to exercise this authority in the matter detailed by the witness, it cannot be held that the city in doing so is engaging in a private enterprise, or performing a municipal function for a private end. It is the use of corporate property for corporate purposes in the sense of the Revenue Law of 1877. It can make no difference whether the water be furnished the inhabitants as a gratuity or for a recompense, the sum raised in the latter case being reasonable and applied for legitimate purposes. So raising a fund to help defray the expense of operating the waterworks, and to keep down the interest of the City's indebtedness, incurred in the construction thereof, is no more engaging in business for gain and profit than would be the assessment and collection of taxes for that or any other legitimate object. To the extent that money is realized by sale of water, if it be so termed, the necessity of laying taxes in the usual way is diminished."

This sound legal and business principle exempting from taxation municipal property devoted to the public use of supplying the city and its inhabitants with the public utilities of gas and water is denied application and refuted as unsound by the court of Kentucky. The case of City of Louisville *vs.* Commonwealth,[1] decided in 1864, shows the attitude of that court to be a peculiar one, and the law of that case still obtains in this jurisdiction. In the course of its decision on this subject of tax exemption the court defined its position by saying: "Whatever property, such as court-houses, prisons, and the like, which becomes necessary or useful to the administration of the municipal government, and is devoted to that use, is exempt from state

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a private corporation, and for its own profit, such as vacant lots, market houses, fire engines, and the like is subject to taxation."

That this cannot be the law is beyond question and the application of such a rule might result in the total destruction of cities by doing away with their fire departments in permitting their sale for non-payment of taxes. The position of this court cannot be defended from the standpoint of law or reason and its practical application would be highly dangerous. Speaking of this decision, Judge Cooley in his excellent work on Taxation says:[1] "but this, unless confined to the case of special assessments, would seem to be limiting the implied exemption unreasonably, and certainly more than other cases limit it."

This same court in 1890 in the case of Clark *vs.* Louisville Water Co.,[2] held to be unconstitutional a statute of that state exempting from taxation all of the property of the defendant company, the entire stock of which was owned by the city of Louisville. The court found that, "the first section of our Bill of Rights provided that 'no man or set of men are entitled to exclusive, separate public emoluments or privileges from the community but in consideration of public service.'" We think it evident that the furnishing of water by the company to the city for fire protection free of charge was not what induced the passage of the act. . . . The reason which induced the attempted granting of the exemption must, therefore, have been, as indeed the act recites, that the sinking fund of the city, or in other words the city itself, owned all the water company stock. The question, therefore is, did the fact that the sinking fund, or in other words the city, owned the water company stock, constitute a valid consideration for the ex-

[1] Page 267.

[2] 90 Ky., 515.

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emption? A municipal corporation has a double character. In one it acts strictly in its governmental capacity. In the other for the profit or convenience of its citizens. Considered in the latter light it occupies the attitude of a private corporation merely, while in the former it is an arm of the state government or a part of its political power. . . . The property necessary to the exercise of those duties which are strictly governmental is exempt from taxation, but this is not so of that which is held by the municipality for the comfort of its citizens, individually or collectively, or for money-making purposes merely. . . . The fact that the furnishing of water may incidentally protect from fire the public buildings of the state will not support the exemption."

The law of this case is followed and extended to a general application of this rule denying the right of exemption to such property in the case of Covington *vs.* Commonwealth,[1] decided in 1897.[2] It should be noted, however, that this court in City of Covington *vs.* District of Highlands,[3] in following the law enunciated in the Clark case, *supra,* denied the right to sell the municipal waterworks property for non-payment of taxes assessed against it; but provided in case of failure to make such payment, a receiver for the property might be appointed to collect funds with which to make such payment. While this may indicate the desire of this court to show some consideration for the preservation of the integrity of such a system, in the interest of the public which is absolutely dependent upon its continued operation, it is submitted that the effect of a receiver in the great majority of cases would be fatal to the successful

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continuation of such a system, and would result in its final dissolution and destruction.

The court of Pennsylvania as early as 1880 in the case of Chadwick *vs.* Maginnes,[1] denied the right of a municipal waterworks plant to exemption from taxation under a statute subjecting to taxation all property not expressly exempt, and especially property from which any income or revenue is derived. In this decision the court found that: "While the plaintiffs in error are in one sense a public corporation, the profits and benefits enure specially to the citizens of the South Ward, even to the extent it may be of relieving them from municipal taxes. Surely it was never intended that such a corporation should be exempt from all taxation, while others are compelled to bear their share of the public burden." While the law of this case is unsound under practically all the authorities we have found, except that of Kentucky, it is the legislature rather than the court that is responsible for the inconsistent position taken by this case. In providing that all property not expressly exempt and especially that from which any revenue is derived should be taxable, it is submitted that an erroneous distinction was made for the classification, for, under the argument advanced earlier in this discussion and by the cases cited, the fact that revenue is realized from municipal property is not a sound basis for subjecting it to taxation.

[1] 94 Pa. St., 117.

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CHAPTER VII

Sale of Municipal Property Providing Public Utilities

The ease with which municipal corporations may conduct business enterprises is also dependent, but in an inverse ratio, upon the power which such corporations have to alienate their property. For experience has shown that in almost all cases private corporations stand ready to take over the operation of municipal public utilities where municipal corporations are becoming embarrassed or are reported to have made a failure of their operation. Indeed it has frequently been charged that influences have been brought to bear to secure an inefficient operation by municipal corporations of such public utilities with the purpose of cultivating among the people a feeling hostile to municipal and favorable to private operation.

The attitude of the courts in regard to recognizing the power in municipal corporations to dispose of municipal plants has therefore an important bearing on the answer to the question which is herein attempted, viz., What is the attitude of the courts toward an increase in the sphere of municipal activity?

The supplying of cities and towns and their citizens with such public utilities as gas, water or electric light for public and private consumption by the municipal corporation is the performance of a public duty, and the property so used is charged with a public trust and is devoted to a pub-

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lic purpose the same as other city property. Such property is dedicated irrevocably to the performance of this trust due the public and for its benefit and that of the inhabitants of the municipality. It is a fundamental principle that the trustee cannot disable itself from performing the trust by disposing of the property or means necessary to carry out the purposes of the trust relation without express authority from the party creating the trust or directing its administration. The power does not inhere in the trustee to defeat the carrying out of the trust by disposing of the trust property. The interests of the beneficiaries under the trust are guarded against any loss on this account by the courts holding that such property cannot be disposed of by the municipality unless under authority conferred specially by statute. The State alone, which attends to the matter of creating these trusts as well as to the selection of the trustees, has the power to provide for their destruction by sale or for their diversion as to trustees by lease or assignment. Having the sole power to create, the State alone has the ability to provide for a change of trustee or a winding-up of the trust entirely; so that in the absence of express legislative authority the courts refuse to imply the right in the municipal corporation, after having accepted the trust, to renounce its duties thereunder or to dispose of the trust property and thus defeat the further carrying out of the trust. The municipality must continue to perform the duties to the public after having once assumed the trust and undertaken to serve the public needs and those of the inhabitants.[1]

When the power to own and operate such plants for supplying public utilities has been given and accepted by a city, a franchise is conferred upon it for the purpose of securing some advantage to the public and for the benefit

[1] Dillon, *Municipal Corporations*, sec. 650.

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of the inhabitants in their private capacity. Such beneficiaries have the right to complain in case of its reliquishment. This rule is based on the general principle of trusts as well as upon the rule that quasi-public corporations are formed in order to serve the public. The duty imposed is a personal one and the right to perform it together with the special privileges pertaining thereto is granted personally as a franchise, on condition that the grantee continue in personal control of such power and in the performance of its duties. The carrying out of the duties of serving the public under such a franchise is regarded as of special importance and the obligation is recognized as being peculiarily personal. Having selected a municipal corporation which is responsible and capable of executing the duties of the trust to the public for which are granted special privileges, amounting in most cases practically to a monopoly, the law does not permit the city to transfer its rights and the accompanying duties to another party which may or may not be responsible and capable of adequately serving the public and its inhabitants.

If at any time it may appear that the interests of the beneficiaries could be best served by some party other than the original grantee, the State which granted the franchise may in its discretion permit such change of grantees; but this must be provided for expressly by the statute. This rule of law is adhered to strictly because it is believed that the interests of the public are thereby subserved. For experience seems to have convinced the courts that the interests of the public are not the main object of private parties who engage in furnishing these public utilities. The desire for personal enrichment predominates over that of serving the best interests of the public. This fact necessitates that very extensive control be exercised over private grantees of such franchises or, what is still better security

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that the public will be served adequately and at fair cost for the service, makes it necessary that the public serve itself directly or that it have the control which accompanies ownership, while the actual operation is provided for by a leasing of the plant owned by the city. This matter, however, is reserved for discussion after an examination of the authorities for the foregoing statements.

The case of Huron Waterworks Co. *vs.* Huron,[1] decided in 1895, was an action to have an attempted sale of the waterworks plant of the respondent city to the appellant, a private corporation, declared void. Such plant had before such attempted sale been owned and operated by the city for supplying its public wants and for domestic purposes. The question decided in the negative by this case is as to whether the council of the city of Huron possesses the power, unaided by the state legislature, to sell and transfer the Huron waterworks system to the appellant. In addition to the power given the city expressly by statute to construct and maintain waterworks, the only statutory authority granted provides, "that the city of Huron . . . shall have power to make all contracts necessary to the exercise of its corporate powers, to purchase, hold, lease, transfer, and convey real and personal property for the use of the city . . . and to exercise all the rights and privileges pertaining to a municipal corporation." In the course of its convincing opinion the court, after citing and discussing at length a number of leading authorities, expressed itself as follows: "Having, as we think, established the proposition that the waterworks of a city when constructed and owned by the city, are to be regarded the same as other city property held for public use, and therefore charged and clothed with a public trust, it would seem

[1] 7 S. Dak., 9.

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to follow that such property cannot be sold and conveyed by the mayor and common council of the city unless under special authority conferred upon them to so sell and convey the same by the legislative power of the State. . . . From this examination of the authorities we conclude that there is no distinction between the nature of waterworks property owned and held by the city, and public parks, squares, wharves, quarries, hospitals, cemeteries, city halls, courthouses, fire engines, and apparatus, and other property owned and held by the city for public use. All such property is held by the municipality as a trustee in trust for the use and benefit of the citizens of the municipality, and it cannot be sold or disposed of by the common council of the city, except under the authority of the state legislature. . . . But such property is so owned and held by the municipality as the trustee of the citizens of the municipality, for the use and benefit of such citizens. It has been acquired by the corporation at the expense of the taxpayers of the city, for their use and benefit, and the law will not permit the corporation to divest itself of the trust, nor to deprive the citizens of their just rights as beneficiaries in the same."

The case of Lake County Water & Light Co. *vs.* Walsh,[1] decided in 1902, was an action to have set aside as fraudulent a deed of conveyance of the water and light plant of the city of East Chicago by said city to the appellant, a private corporation. In granting the relief asked for the court said in part: "It seems clear, upon the soundest reasoning and from the great weight of authority, that property held and used by a city for public purposes is held in trust for the inhabitants, and can not be sold or disposed of unless the city is specially authorized by the legislature

[1] 160 Ind., 32.

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to make such sale or disposition and thereby determine the trust. . . . The remaining question is whether waterworks and an electric light plant constructed or purchased by the city and maintained by it for the extinguishment of fires, for domestic purposes, for lighting the streets, and for use in the houses of the inhabitants of the city are to be regarded as property devoted to a public use. . . . The right to furnish water for protection against fire, to clean the streets, to flush sewers, and for the supply of the inhabitants, and the right to light the streets and public places, and to furnish gas or electricity to the inhabitants, are among the implied and inherent powers of a municipal corporation for the protection of the lives, health, and property of the inhabitants of the city, and, as to the lighting, as a check on immorality. Unquestionably these are public purposes. . . . In our opinion waterworks and electric light plants held, owned, and maintained by cities . . . must be regarded as property held in trust for a public use. Nor do we think they lose that character by reason of the fact that water and light are supplied to the inhabitants for domestic purposes, and that rentals and charges are paid for the same."

In the case of New Albany Waterworks *vs.* Louisville Banking Co.,[1] decided in 1903, the court refused the right to the plaintiff, a private corporation, in the absence of express statutory authority, to lease to another like corporation the property, franchise and contracts of its waterworks system, with which it was supplying water to a municipality and its inhabitants. The case is mentioned in this connection for the reason that the court indicated that it is beyond the power of a municipality to validate such a lease

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tention in aid of the lease rests on the alleged assent thereto on the part of the city of New Albany. . . . The corporation is created by the state, and not by the municipality. While the latter may grant privileges to the corporation which are within their respective powers derived from the state, it can confer no authority upon the corporation to transcend those powers. The ordinance, therefore, is without force as authority for the lease."

The case of Ogden City *vs.* Bear Lake, etc., Waterworks Co.,[1] decided in 1898, was an action to set aside a lease of the waterworks plant while owned and operated by the plaintiff city, made by such city to the defendant, a private corporation. In finding such lease to have been made without authority and to be therefore void, the court used the following language: "Ogden City was a public corporation, and its authority was limited to such powers as were expressly granted by statute, and such as might be necessary to those expressly given. Undoubtedly, water distributed to a city and its inhabitants is devoted to a public use, and the entire system, whether consisting of reservoirs, conduits, pipes, or other means used to accomplish the delivery is also dedicated to the same use. The control and management of property dedicated to the use of the people of a city is given for their benefit, not for the individual benefit of the public authorities. . . . They cannot deprive the public of the benefit of property rights or powers affected with a public use by conveying or leasing it to others, unless their charter specially authorizes it, though such other corporation or person may undertake to give the public the use of it for compensation deemed reasonable. . . . When property whose use is devoted to the public is conveyed or leased to private corporations, though a contract may require its use to be given to the public for a rea-

[1] 52 Pac., 697.

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sonable remuneration, the public, to a great extent, loses its control over it, and any net income realized goes into the hands and pockets of private parties. In fact, such parties cannot give the use of their property to the public for the actual cost of it, and the actual expense of the business, as in this case. They must have profits, and it is to the interest of such parties to make the profits or net income as large as public officials will consent to make it. The people usually get fleeced when the city places its waterworks in the hands of private parties. Public-spirited men are not at all times free from the undue influence of self-interest. Their disposition to favor the public is not equal to their inclinations to favor themselves."

This case has been quoted from at length not only for its clear enunciation of the principle of law at issue but especially for its discussion of the reasons for the decision and for the practical attitude which the court takes in dealing with the situation. That private gain is the controlling motive where such public-utility services are rendered by private capital is inevitable and this court seems of the opinion that municipal ownership and operation are necessary to secure proper service to the public and the individual inhabitant. The case also takes the position, although not necessary to the decision, that since the public use of the property and the duty to the public are the grounds for the principle of law laid down, where the property of the city is not necessary or no longer suitable for such use, it may be disposed of by the city. And it is submitted this is a practicable limitation for the general doctrine denying to the city the right by implication to sell or lease its property acquired and used for public purposes.

In the case of Ogden City *vs.* Waterworks & Irr. Co.,[1]

[1] 28 Utah, 25.

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decided in 1904, the same court passed directly upon the question of the exception to the general principle under discussion in holding to be valid a lease made by the plaintiff city to the defendant of its waterworks plant which was about to be abandoned by said city and was no longer capable of meeting the public and private demands made on such a plant. The decision gives the authority of law to the dictum found in the earlier case referred to as decided by this court, and is to be commended for its highly practical treatment of the situation. After finding the system to have been insufficient the court adds that, "there is evidence in the record that tends to show that the system itself had about outlived its usefulness. . . . In view of the conditions that existed and confronted Ogden City at the time the lease was made, we are of the opinion that the city council not only acted within its authorized powers in authorizing its execution and afterwards ratifying it, but that, under the circumstances, those powers were wisely exercised, for it is apparent that, after the city had decided to abandon its old waterworks system, it was necessary to make some disposition of its water right; otherwise, in course of time, it would be lost by nonuser."

This situation as to the actual condition of the property, owned for the purpose of serving the public and having become wholly unfit for the further giving of such service, is even more strikingly found in the case of City of Indianapolis *vs.* Consumers' Gas Trust Co.,[1] decided in February, 1906. The decision of this case held to be valid a certain option given the appellant city by the respondent for the sale of its gas plant with which it had supplied the inhabitants of the said city with natural gas. This option to pur-

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to the respondent company when the plant was originally installed and the city had given notice according to its terms of its election to exercise its rights to purchase the plant under such option. At the time this action arose to enforce such sale the supply of natural gas had failed; so that this gas plant was not furnishing gas nor had it been in position to do so for several years. To have held that such a sale was *ultra vires* because the company owed the duty of furnishing gas to the public would have been an unwarranted misapplication of a well recognized principle of law and a complete perversion of the purpose intended to be accomplished thereby, namely the protection of the public interests as against those of private parties. In the nature of things it was impossible for the company to continue to supply the public so as to that purpose the plant was mere junk. By purchasing the plant under its option the object of the city was to make possible the installation of an efficient artificial gas plant for the accommodation of the inhabitants of such city at a reasonable rate. The court by Grosscup, J., said: "The thing enjoined by the court below [which is reversed here] was not the construction or operation of a municipal natural gas plant. The thing enjoined was the purchase of dead mains and pipes—a purchase in the promotion of a purpose to construct and establish works that would distribute artificial gas—just such a public work as the statutes admittedly allow."

While this idle condition of the property was recognized by the court and must have had a material, practical effect upon its decision, the ground expressly given is the expiration of the franchise by the election of the city to purchase the plant according to its option, which the court found to be a valid condition to the granting of such franchise. The court took occasion to draw the distinction between this agreement to sell a public-service plant to a muni-

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cipality and agreements to sell to other parties, saying: "Examination of the numerous authorities cited for and against the contention of *ultra vires* reveals no case involving a provision of like character with this option clause, nor one in reference to a right to transfer the corporate property to a municipality under any circumstances. In none of the citations, state or general, are there any reasons stated that seem inconsistent with the proposition that a corporation, engaged in a service of public utility, may contract for a sale to the municipality of all of its property therein, either through a condition accepted in the franchise from the city, or through subsequent arrangement. The question whether municipal ownership is favorable to the public interest, is neither involved in, nor open to, judicial inquiry. Assuming that such ownership is authorized, and is contemplated or demanded by the municipality, we are convinced that this proviso, treated alone as a contract of sale on the part of the gas company, is not within the inhibition of the rule—not *ultra vires*. The public policy which is mentioned in the cases cited, as opposed to an implication of charter power to turn over its property to another and 'abnegate the performance of its duties to the public,' has no application to the transfer to the public—the municipality—of property used in public service." [1]

This distinction is supported by the common observation, made by this court, which is here recognized and given the effect of law, that the public interests in public-utility plants are so much more secure when controlled by public than by private capital that an agreement of a public or quasi-public corporation to sell to the one may be allowed, in

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refuses to permit such an agreement to stand when made with private parties. This must be the chief consideration for upholding the options to purchase such plants, which are now so commonly taken by the municipality when granting franchises. And such a precaution is a very wise one for the city to take, for it provides the opportunity for the municipality at any time to take over such property and control it absolutely for the public benefit. And while experience shows that this action is often necessary the fact that it can be done so summarily acts as an important factor in forcing public consideration into the service rendered by the private concern.

These cases, then, will serve to show the general rule of law, together with the practicable limitation placed thereon by our courts, which denies to the municipality the implied power to sell the property used in serving the public, except when the public interest no longer necessitates its continued holding. And it should be noted, also, that the rule is not limited to cases of voluntary sales but that such property when used for public purposes is not subject to forced sales on execution.[1]

In the case of Bailey *vs.* Philadelphia,[2] decided in 1898, the Supreme Court of Pennsylvania pretended to uphold the power in the municipality to lease its gas works on the theory that the city owned such property as a business corporation, and from this fact concluded that the city is not required by its municipal duty under the statute to supply its citizens with gas for lighting. The court, however, finds

[1] Dillon, *Mun. Corp.*, sec. 577; 5 Am. & Eng. Ency. Law, 1068, and cases cited. The case of Sun Publ. Assn. *vs.* Mayor, 152 N. Y., 257, is an interesting illustration of the principle that the municipality when

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that, "the right of alienation is given in express words in the charter." In so far as the actual decision of the case goes, in finding express statutory authority for the lease it is in full accord with the authorities, but the spirit of the case as shown by an extended argument which is *obiter dictum* tends to support the statement that the municipality has inherent power to lease or dispose entirely of its gas plant and that it is under no duty to serve the public with such a public utility beyond its own pleasure. This doctrine, which the case suggested, is not supported by the authorities but is directly contrary thereto, and its adoption would be dangerous to the public welfare; nor does it seem to have been followed by any of our courts.

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CHAPTER VIII

Power to Grant Exclusive Franchises

The attempt has been made to show in what has already been said that the courts favor both the recognition in municipal corporations of those powers whose exercise is necessary in order that such corporations may secure the ownership and operation of municipal public utilities and the adoption of the rules of law as to the taxation and sale of the property devoted to such purposes which will aid rather than impede such corporations in the adoption and pursuit of the policy of municipal ownership and operation.

The attempt has also been made to show that at least one of the motives which have led the courts to take the position they have assumed is their belief that private corporations are actuated by the motive of gain rather than public service. This same motive seems to have influenced the courts when they have been called upon to determine the legal relations which should exist between municipal corporations and private corporations where it has been decided to adopt the policy of private ownership and operation.

At the time when the exploitation of municipal public utilities was undertaken in this country it was believed that competition would secure to the public efficient service and reasonable rates from the private corporations which were entrusted with their operation. The courts therefore have striven to formulate the law in such a way that monopolies might not develop. They have hence held that munici-

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pal corporations in the absence of statutory authorization may not grant exclusive franchises for the ownership and operation of public utilities. Furthermore the courts will not so construe a franchise as to make it exclusive where they can give it any other reasonable construction for fear the public interest will be ignored for the sake of private gain.[1]

But in the absence of the municipal ownership of plants supplying these utilities it is necessary to depend on private initiative for the service, and the erection and maintenance of such systems require so large an outlay of money that such enterprises will not be undertaken under contracts or franchises running for short periods of time.[2]

It is necessary therefore to grant rather long contracts before private capital will consent to launch such a business, for it necessitates a large and a long-time investment because the property so acquired cannot be converted into cash unless the statute expressly permits of its sale and transfer to another, or unless the municipality itself be the purchaser. To this extent the arrangement for providing such service by private capital defeats the idea of keeping the control constantly in the municipality. Notwithstanding, where it is found necessary to depend on private interests for these accommodations, the courts concede to municipal corporations the power by implication to make contracts for the supply of these utilities for public purposes for a limited period, but in doing so the courts hold strictly that such power does not include the giving of exclusive

[1] Little Falls Electric Co. *vs.* City of Little Falls, 102 Fed., 663; State *ex rel. vs.* City of Hamilton, 47 Ohio St., 52; Hamilton Gaslight & Coke Co. *vs.* Hamilton City, 146 U. S., 258; Thomas *vs.* City of Grand

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privileges for serving private purposes and individuals.[1] By means of this reservation greater control is saved to the municipality since it makes possible future competition in the supply for private purposes. But this control is of no great practicable value for the reason that these public utilities are generally natural monopolies.

A discussion of some of the leading cases on this general question will serve to make these statements more authoritative and will illustrate more fully the force and practical effect of the principles herein enunciated.

The general principle is clearly expressed in the case of Clarksburg Electric Light Co. *vs.* Clarksburg,[2] decided in 1900, in which the complainant claimed the exclusive right to use the streets of the defendant city for operating an electric-light plant by virtue of a franchise granted by said city and made in terms exclusive. In refusing relief to the action which was to enjoin the erection of a competitive electric-light system in said city the court spoke in the following manner: "Surely, we cannot say, contrary to the drift of all the law of the country, that the mere power to control streets and light the same carries with it by implication the enormous power to tie the hands of an important municipality for many years, or that such a power is indispensable or necessary to enable the municipality to carry out its legitimate functions. Therefore, the council of Clarksburg had no authority to grant this exclusive franchise; and that feature of its ordinance is *ultra vires,* and therefore, void, confers no right [and] makes no contract."

[1] Gas Co. *vs.* Parkersburg, 30 W. Va., 435; Long *vs.* City of Duluth, 51 N. W., 913; National Foundry & Pipe Works *vs.* Oconto Water Co.,

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In the case of Smith *vs.* Town of Westerly,[1] decided in 1896, the court, in construing a statute empowering any city or town to grant to any person or corporation the right to erect waterworks therein to supply its inhabitants with water, said: "It will be seen at once that, in attempting to grant to said company the exclusive right to lay water pipes in the public highways of the said town, the town council exceeded the authority conferred by said statute, and hence that the town is not bound by said contract; for, however it may be as respects the power of the legislature to make such a grant exclusive, it is clear that no such power can be exercised by a town council unless it is conferred by express words or by necessary implication."

The law on this question is shown to be fundamental and of long standing in the opinion of the court of North Carolina in the case of Thrift *vs.* Elizabeth City.[2] In construing a municipal ordinance the court said: "Those provisions of the ordinance granting the exclusive privilege to construct and maintain waterworks within the corporate limits of the town, and the exclusive use of its streets, alleys, sidewalks, public grounds, streams, and bridges, come within the condemnation of sec. 1 of the Constitution of this state, which declares that 'perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.' . . . All authorities hold that no such exclusive privilege can be granted by a municipal corporation without express legislative authority."

The case of Citizens' Gas etc. Co. *vs.* Town of Elwood,[3] also contains a well reasoned decision on this principle of law where it is said: "The town trustees had no authority

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corporation cannot grant to any fuel or gas supply company a monopoly of its streets. There is nothing in the nature or business of such a company making its use of the streets necessarily exclusive. The spirit and policy of the law forbid municipal corporations from creating monopolies, by favoring one corporation to the exclusion of others. It is probably true that a municipal corporation may make a contract with a gas company for supplying light to the public lamps for a limited time, even though it be for a number of years; on this point, however, there is some conflict, but there is no conflict on the proposition that, in the absence of express legislative authority, a municipal corporation can not grant to any corporation the exclusive privilege of using its streets."

And finally the Supreme Court of the United States in the case of Freeport Water Co. *vs.* City of Freeport,[1] has said: "The power of a municipal corporation to grant exclusive privileges must be conferred by explicit terms. If inferred from other powers, it is not enough that the power is convenient; it must be indispensable to them."

While the municipal authorities are given power by implication to contract for the supply of public utilities to the city beyond their term of office and for a reasonable time because it is practically impossible to get such a contract to any advantage and for a reasonable compensation for short periods, what is a reasonable time for such contracts is a question of fact to be determined in each case. No definite period of time can be fixed upon as a reasonable one for all cases. The decision of the question depends upon so many varying circumstances and conditions as to situation, cost of supply and future prospects that our courts will not interfere to set aside such contracts made by cities

[1] 180 U. S., 587.

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in the exercise of their discretion except in extreme cases of its abuse.

The case of Westminster Water Co. *vs.* Westminster,[1] decided in 1904, holds void a perpetual contract for the water supply of the defendant city. The opinion contains a brief summary of some of the cases deciding what are reasonable periods for such contracts. It thus shows that, "in the case of New Orleans Waterworks Co. *vs.* Rivers,[2] a contract for fifty years was sustained; in Walla Walla *vs.* Walla Walla Water Co.,[3] a contract for twenty-five years was sustained; in Vicksburg Waterworks Co. *vs.* Vicksburg,[4] a contract for thirty years was held not unreasonable."

The case of City of Vincennes *vs.* Citizens' Gas Light Co.,[5] expresses this well established principle by saying: "A city has power to contract for a supply of gas or water for a stated period of time extending beyond the tenure of office of the individual members of the common council making such contract. . . . We cannot say that twenty-five years is an unreasonable time for which to contract for a supply of light or water."

Finally it is the rule of the courts that a franchise will not be so construed as to make it exclusive if any other construction is possible even where the municipal corporation granting it has by statute the right to grant an exclusive franchise. The case of City of Meridian *vs.* Farmers' Loan & Trust Co.,[6] decided in 1906, was that of an injunction sought for the purpose of restraining the appellant city from exercising the powers conferred upon it by a statute passed after its contract with the assignor of the

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water, to erect and operate a new plant for the purpose of supplying itself and its citizens with water. In refusing to grant the relief prayed for and to concede to the respondent the exclusive right to supply water for the public and private demands of the city by virtue of said contract, the court said: "The contract does not contain any provision by which the city expressly agreed not to establish and operate a waterworks plant of its own during the period of the existence of the contract between it and the Meridian Waterworks Company. The relief prayed for could only be granted upon the theory that the law under the circumstances will supply by its implications the want of an express agreement that the city would not build waterworks of its own. We need not consider what would be implied in the case of a contract like this between private parties. The contract here is one in which a municipal corporation makes a grant in which the public has an interest. When a municipal corporation is exercising its functions for the public good, it is not to be shorn of its right to continue to exert its powers for the general good by mere implication. If by contract it may under the circumstances restrict the exercise of its public powers, the intention to do so must be shown by apt words so clear as not to reasonably permit any other construction. Unless there can be found in the contract in question words clearly depriving the city of Meridian of the right to build, own, and operate waterworks, the court should not by implication give such effect to the contract." [1]

A recent decision of the Supreme Court of the United States directly on this question is found in the case of Knoxville Water Co. *vs.* Knoxville,[2] decided in 1906, where

[1] See also Water, Light & Gas Co. *vs.* City of Hutchinson, 144 Fed., 256; City of Joplin *vs.* Southwest Missouri Light Co., 191 U. S., 150; Re Brooklyn, 143 N. Y., 596.

[2] 200 U. S., 22.

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the action was to enjoin the defendant city from erecting and operating a waterworks system in competition with that of the plaintiff, who claimed the exclusive right to render such service by virtue of a contract wherein the said city agreed, 'not to grant to any other person or corporation, any contract or privilege to furnish water to the City of Knoxville or the inhabitants thereof for a period of thirty years.' In speaking of this contract the court said: "We fail to find in it any words necessarily importing an obligation on the part of the city not to establish and maintain waterworks of its own during the term of the water company. . . . The stipulation in the agreement that the city would not, at any time during the thirty years commencing August 1st, 1883, grant to any person or corporation the same privileges it had given to the water company, was by no means an agreement that it would never, during that period, construct and maintain waterworks of its own."

But even where the statute does not permit the municipal corporation to grant an exclusive franchise, the courts still hold that it may preclude itself by the terms of a franchise from itself entering into competition with its grantee. The case of Walla Walla *vs.* Walla Walla Water Co.,[1] decided in 1898, is the leading one illustrating this principle of law. In sustaining an agreement on the part of the city, made under proper statutory authority for securing the supply of these public utilities by private capital, which expressly excluded the municipal corporation for the period of the franchise from engaging in competition with such private enterprise in supplying these utilities to itself and its inhabitants, the court took the position that it was in effect nothing more than an express promise to carry out the agreement of its franchise to the company in good faith;

[1] 172 U. S., 1.

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and held that such a limitation on its own power did not amount to the granting of a franchise exclusive of all competition which the charter of the city in question expressly provided could not be done.

The case of Vicksburg *vs.* Vicksburg Waterworks Co.,[1] decided in May, 1906, is concerned with the question under discussion in the two former cases and its decision is based expressly on the Walla Walla case. The court indicated its intention to give full credit to the authority of the Knoxville Water Co. case by saying: "And unless the city has excluded itself in plain and explicit terms from competition with the [private] waterworks company during the period of this contract, it cannot be held to have done so by mere implication. The rule, as applied to waterworks contracts, was last announced in this court in Knoxville Water Co. *vs.* Knoxville."[2] The court by Day, J., then proceeds to find in the franchise under construction in the case, an agreement binding on the city which excluded it from owning and erecting such a plant during the period of such franchise by virtue of the fact that it had been made in terms exclusive for such period. The court said: "We cannot conceive how the right can be exclusive, and the city have the right, at the same time, to erect and maintain a system of waterworks which may, and probably would, practically destroy the value of rights and privileges conferred in the grant."

From this holding Harlan, J., who wrote the opinion in the Knoxville Water Co. case, dissented, giving as his reason for so doing that, "it ought not, in my judgment, to be held upon the present record that the city has by or-

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works for the benefit of its people. The contrary cannot be maintained, unless we hold that a municipal corporation may, by mere implication, bargain away its duty to protect the public health and the public safety as they are involved in supplying the people with sufficient water. Nothing can be more important or vital to any people than that they should be supplied with pure wholesome water. And yet, it is now held that it was competent for the city of Vicksburg, by mere implication, to so tie its hands that it cannot perform the duty which it owes in that regard to its people."

In the interest of municipal activity and for the better safeguarding of the welfare of the people living in cities, it is to be regretted that this highly practical position of Justice Harlan was not sustained by the prevailing decision in this case which, it would seem, in effect seriously attacks, if in fact it does not virtually overrule, the principle established in the Knoxville Water Co. case.

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CHAPTER IX

Municipal Regulation of Rates for Public Utilities

The courts, while holding that competition has great value in securing the public advantage in case of the operation of public utilities by private capital, have at the same time felt that it was unwise to trust to it alone. They have therefore endeavored to secure to municipal corporations the right to regulate private capital engaged in rendering public service where the exercise of such a right was consistent with a due regard to the private rights guaranteed by the constitution and with the general principles of the laws regulating the powers of municipal corporations.

The rule of law is now universally accepted that when private property is devoted to a public use, it is subject to public regulation and control. Property is clothed with a public interest and devoted to a public use when used in a manner to make it of public consequence, and to affect the entire community. When one devotes property to a use in which the public has an interest, he virtually grants to the public an interest in that use, and must submit to public control for the common good to the extent of the interest so granted.[1]

It is evident that when the State in the exercise of its sovereign power grants a charter, conferring the privilege of existing and operating as a legal entity upon the united interests of a number of individuals and constituting them

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a body corporate, such a grant of special rights and privileges can be made subject to such conditions and regulations as the State may see fit to impose within constitutional limitations. Being the creature of statutory origin, the corporation possesses only the powers given by such origin upon the conditions stipulated by the State. And where the power to alter, amend or repeal is reserved in connection with the granting of the charter, such power may be exercised at any time thereafter without impairing the obligation of contracts, prohibited by our Federal Constitution, because the contract resulting from the acceptance of the franchise is made subject to such modification or rescission.[1] As stated by the Supreme Court of Indiana in the case of Hockett *vs.* The State,[2] "the power of a State Legislature to prescribe the maximum charges which a telephone company may make for services rendered, facilities afforded, or articles of property furnished for use in its business, is plenary and complete."

But this power of the State to regulate, which includes the power to fix the maximum rates that may be charged for the service, is a sovereign power which our courts hold can be delegated to municipal corporations only in express terms or by necessary implication. While the legislature has the right to fix the price at which gas, water, or electric lights shall be supplied by one who enjoys a monopoly of the business by reason of having such exclusive privilege, the courts will not presume such right to be vested in the municipality unless it has been granted by the Legislature expressly or by clear implication.

The case of In re Pryor,[3] decided in 1895, establishes this principle. After granting a franchise to erect and

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maintain a gas system within its limits, without prescribing any rates to be charged for the supply of such gas for domestic purposes, upon which grant such a system was installed, the city of Iola, Kansas, nine years after granting the franchise, passed an ordinance fixing the maximum rates to be charged for such service at much less than those theretofore charged. In denying the validity of such ordinance attempting to fix the rates for such service the court said: "The act providing for the organization and government of cities of the third class [to which Iola belonged] contains no express grant of power to fix or regulate the prices of gas, water or any other article of necessity or luxury. . . . Certainly there is no express authority conferred upon the municipal authorities by this section to regulate the price of gas or water [providing general powers in corporations to provide cities with gas or water 'with the consent of the municipal authorities thereof, and under such regulations as they may prescribe.'] Whether they might as a condition of their consent, provide that gas or water should be furnished to the city or to its inhabitants at not exceeding certain prescribed rates, we do not now inquire. Consent was granted by ordinance No. 268, to the Iola Gas and Coal Company, its successors and assigns [of whom petitioner is assignee] without annexing any condition as to rates. . . . In certain cases the State may fix and regulate the prices of commodities and the compensation for services, but this is a sovereign power, which may not be delegated to cities or subordinate subdivisions of the State, except in express terms or by necessary implication. No such power is expressly conferred upon the cities of the third class, and we do not think the right can be implied from any express provision, unless possibly that in the grant of consent to any person or corporation so to use the streets and public grounds of the

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city a condition might be imposed as to the maximum rates to be charged."

To this same effect is the case of Webaska Electric Co. *vs.* City of Wymore,[1] decided in 1900, on an action to restrain the enforcement of an ordinance reducing rates for electric light furnished by the plaintiff under a franchise from the defendant city. The Court said: "In dealing with this feature of the case it is not necessary to determine whether the city was authorized by its charter, as it existed in 1889, to grant any person, company or corporation, an exclusive franchise for the erection and operation of an electric light plant. The plant has come into being; it is now established, and the owner thereof has the right to furnish light to its private customers on such terms as may be mutually satisfactory to the parties concerned. The defendant has plainly no power or authority to regulate the plaintiff's charges for lights furnished to the inhabitants of Wymore. The Legislature has, of course, the right to fix the price at which gas or electric lights shall be supplied by one who enjoys a monopoly of the business by reason of having an exclusive franchise; and such right may be delegated to the governing body of a public or municipal corporation. But the power of regulating the charges for electric lights is not found among the grant of powers contained in defendant's charter. There is no such authority given, either expressly or by implication and, therefore, it does not exist."

The same principle is equally applicable to, and has been fully enunciated in connection with, the giving of telephone service in municipalities which has practically all of the elements of a natural monopoly. As early as 1888 in the case of City of St. Louis *vs.* Bell Telephone Co.,[2] the court

[1] 60 Neb., 199.

[2] 96 Mo., 623.

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laid down this rule of law as follows: "This was a prosecution against the Bell Telephone Company of Missouri for the violation of an ordinance which provides that the annual charge for the use of the telephone in the city of St. Louis shall not exceed fifty dollars. . . . The important question, then, is whether the city of St. Louis has the power to enact the ordinance in question. . . . If the city has such power it must be found in a reasonable and fair construction of its charter. . . . That the company is subject to reasonable regulations prescribed by the city, as to planting its poles and stringing its wires and the like, is obvious. Such regulations have been obeyed by this defendant. Conceding all this, we are at a loss to see what this power to regulate the use of the streets has to do with the power to fix telephone charges. The power to regulate the charges for telephone service is neither included in nor incidental to the power to regulate the use of streets, and the ordinance cannot be upheld, on any such ground. . . . The power to regulate, it may be conceded, gives the city the right to make police regulations as to the mode in which the designated employment shall be exercised. But taking these charter provisions together, we think it would be going to an extreme length to say that they confer upon the city the power to fix telephone rates. . . . We conclude that the city has no power to pass the ordinance in question by reason of any of the charter powers before considered. . . . To say that under this general power [of the general welfare clause] the city may fix rates for telephone services would be going entirely too far." [1]

This same principle with reference to the power of cities

[1] This principle was fully affirmed by the same court in 1905 in State *ex rel. vs.* Telephone Co., 189 Mo., 83.

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to regulate the rates for telephone service only in those cases where the right to do so has been expressly conferred upon the municipality or can be necessarily implied from some express grant by the State, is clearly stated together with the reason on which the rule of law is based in the case of State ex rel. The Wisconsin Telephone Co. *vs.* City of Sheboygan,[1] decided in 1901. In the course of its opinion the court said: "Whatever power a municipality possesses over the wires and poles of a telephone company in its streets must be granted it by the legislature—2 Dillon, Mun. Corp. Sec. 698. The charter of the city of Sheboygan empowers it to enact proper ordinances and regulations for the government and good order of the city for the benefit of trade and commerce for the suppression of vice and the prevention of crime, to prevent the incumbering of streets, to provide for the removal of obstructions therein, to regulate the manner of using streets, and to protect them from injury. As we have already seen, this grant of power does not authorize the city to wholly prevent the relator from doing business within its limits. No express authority is given the city to regulate charges for telephone service, nor is there any express grant of power, from which such authority can necessarily be implied. . . . The power to regulate charges was not included in or incidental to the power to regulate the manner of using streets. There is not the remotest relation between them. The attempt of the city to justify its position on that ground must fail. . . . Neither does the power come to the city under the general authority to pass ordinances for the government and good order of the city and for the benefit of trade and commerce. To say that under this general power the city may fix rates for telephone service would be going

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The Supreme Court of Indiana in a series of recent decisions has firmly established in that state this principle as to the municipal regulation of rates for public utilities in connection with the matter of supplying natural gas to the inhabitants of municipalities. The first case of Lewisville Natural Gas Co. *vs.* State ex rel.,[1] was an action to compel the appellant company by mandamus to furnish gas at the price fixed by an ordinance of the town of Lewisville by the terms of which the said company was required to furnish gas at a lower price than it had been charging for such service. In deciding the question as to the power of said town so to fix the price at which the appellant should supply the citizens with gas, the court said: "It is not contended that the general statute upon the subject of incorporating towns confers upon towns, when incorporated, the power to regulate the price at which natural gas shall be sold. It is contended, however, that such power is conferred by an act of the General Assembly, approved March 7, 1887. That act is as follows: 'Section 1. Be it enacted, etc., That the boards of trustees of towns, and the common councils of cities, in this State, shall have power to provide by ordinance, reasonable regulations for the safe supply, distribution and consumption of natural gas within the respective limits of such towns and cities, and to require persons or companies to whom the privileges of using the streets and alleys of such towns and cities is granted for the supply and distribution of such gas to pay a reasonable license, for such franchise and privilege.' . . . There is not a word or a syllable to be found in this act indicating that the General Assembly had in view any other purpose than that of securing the safe supply and use of natural gas. To secure the safe supply and use of natural gas is one thing and to fix the price at which gas shall

[1] 135 Ind., 49.

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be supplied is another and quite different thing. In our opinion it was not the intention of the General Assembly to confer, by the act above set out, the power to regulate the price at which natural gas should be furnished. . . . The trustees of the town of Lewisville having no power to regulate the price at which natural gas should be furnished, the ordinance in question, purporting to do so is void upon its face."

The decision of this case is expressly affirmed by the same court in 1901, in the City of Noblesville *vs.* Noblesville Gas etc., Co.,[1] where the court said: "It would be doing violence to the rules of statutory construction to hold that under the law of 1887 [quoted *supra*] the power of a city, when not reserved in granting a franchise, to prescribe the prices chargeable by its licensee to consumers of its gas, is free from fair and reasonable doubt."

In this case the appellee company had instituted an action to enjoin the appellant city from enforcing an ordinance regulating the rates to be charged consumers of natural gas. It appeared that the franchise originally granted said company gave no exclusive right and fixed no time for its continuance and imposed no restrictions upon the price to be charged for gas either by express stipulation or a reservation to fix or control prices thereafter. The ordinance passed by the city later fixed the maximum rates in particular cases that might be charged by any one accepting its provisions, which the appellee company did expressly in writing duly filed with the common council of said city. In deciding the case on this point in favor of the city the court said: "That the city had no power to regulate the rates of its licensee makes no difference. It had the power to contract. And the power to regulate as a

[1] 157 Ind., 162.

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governmental function, and the power to contract for the same end, are quite different things. One requires the consent only of one body, the other the consent of two. In this instance the city acted in the exercise of its power to contract, and it is therefore entitled to the benefits of its bargain. There is no merit in appellee's contention that the ordinance of 1888 fails for want of consideration. Appellee's original franchise of 1886 was without restriction as to rates; and it could have continued to enjoy its franchise and fix its own rates (if reasonable) if it had chosen to do so. By the ordinance of 1888 the city in effect proposed that any person, firm or corporation, including appellee, desiring the use of its streets and alleys as a means of marketing natural gas, might have the same, by undertaking to abide by and perform all the conditions set forth, including the limitation upon prices for gas. Appellee was not required to accept the new proposition. It might have gone on without a contract for chargeable rates, and taken its chances of legal interference, or it might free itself of uncertainty by accepting the certainty of contract. It chose the latter course, accepted the ordinance, and for the first time had a contract and a legal authorization to charge the price specified in the ordinance contract. This was a sufficient consideration."

This contractual power of municipalities to impose regulations in the matter of rates to be charged for gas when the company agrees to accept the same, and by so doing enters into a contract of its own motion, is further defined and established in the case of Muncie Natural Gas Co. *vs.* City of Muncie.[1] This was an action to restrain the violation of a contract under which the appellant company

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at not to exceed the maximum rates stipulated in said contract. To the defense of said company that such contract was *ultra vires* the city and therefore void because no power was vested in it to enter into such a contract fixing the rates to be charged its inhabitants for gas, the court held that, since the company had continued to use the streets of said city for the distribution of natural gas to private consumers by virtue of such contract, it was not within the power of the company to deny the right of the city to enter into such a contract.

But in the course of its opinion the court expressed the belief that there was no lack of power in the city to make such a contract, saying: "Natural gas is a public utility that cannot be obtained by the citizens of a municipality generally, except as it is conducted in pipes along the public ways of the city. The grant of exclusive power to the common council over such ways comprehends the right to permit gas companies to use the streets. If the common council may permit a natural gas company to use the streets without any condition annexed, except such as the law attaches, it is not perceived why, as in this case, in making provision for supplying natural gas to all of the inhabitants of the city, it may not protect such inhabitants against extortion by providing that the company shall not charge in excess of certain prices for its service. . . . It was not limited alone to the granting of this franchise, but it had the right to prescribe and impose terms and conditions. When these terms and conditions . . . were accepted . . . it became a binding contract."

To what extent the city has power to insist on stipula-

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bound in the matter of rates, this case does not decide. And while the expressions of the opinion above set out would indicate that the attitude of the court favors the holding that such power belongs to the municipality even when no express authority has been delegated to it to fix rates, this position was not necessary to the decision of the case and so cannot be regarded as having the authority of law. While there is good reason for holding the city to have the power to prohibit the charging of excessive rates in connection with the granting of its franchise just as the courts will enjoin the company from making extortionate charges for its service, it is submitted the city cannot fix the rates to be charged under the mere general authority to regulate the use of its streets. To permit them to do so would have the effect of denying the validity of the well established principle that such power belongs to the city only when the grant of it is found to have been made by the legislature expressly or by necessary implication. The court limits the application of its remarks, however, by saying that "municipalities cannot, under existing legislation, exercise the legislative power to fix rates in any case."

This principle is further discussed and its application more clearly defined in the case of City of Rushville *vs.* Rushville Natural Gas Co.,[1] which was decided in 1905. The appellee in this case was in occupation of the streets and public places of the city of Rushville and was supplying its inhabitants with natural gas, under a franchise granted for that purpose by an ordinance of said city passed in July, 1889, known as No. 26, which imposed no restrictions or limitations upon said appellee with respect to the rate to be charged consumers for such gas, or as to the method by which the price should be ascertained and fixed. In August 1890, the appellant city duly passed another ordin-

[1] 164 Ind., 162.

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ance, known as No. 30, granting generally to any corporation, firm, company or individual a franchise to supply said city and its inhabitants with natural gas upon compliance with certain terms and conditions. And in May, 1899, said city passed a third ordinance known as No. 73, amending said ordinance No. 30 by providing for the use of meters for the measurement of the gas consumed and limiting the charge therefor to fifteen cents per thousand feet. The action in the case was brought by the appellant to enjoin the appellee from increasing its rates and charging consumers of natural gas in excess of the maximum price fixed by the provisions of said ordinances Nos. 30 and 73. The court stated the principle in question in the following decisive language:

"Appellee accepted the provisions of this ordinance [No. 26], adjudged and conceded to be valid, and constructed its plant at a cost of $100,000 to fulfil the purpose of its creation. The acceptance by appellee of the privileges granted by appellant in this ordinance constituted a contract equally binding upon both parties, and when acted upon rights became vested, and its provisions became secure against impairment by any subsequent municipal action. . . . This ordinance did not prescribe any limits as to charges for gas, or reserve to the city the right thereafter so to do. No alteration of or addition to the terms of the contract thus formed could be made afterwards by either party without the consent of the other. . . . It is now the settled law of this State that, under such circumstances as shown here, cities have no authority or power by subsequent ordinance or action, to impose any additional restrictions

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the action was to restrain the enforcement of an ordinance of the defendant city forbidding manufacturers from demanding more than seventy-five cents per thousand cubic feet for gas served to its customers, which was a marked reduction from the prevailing price of gas. In refusing to find such power in the city to regulate the rate of gas supply the court said: "No one has pretended that the regulation of the price of gas is essential to the specific object for which the city of Chicago was created. . . . It is plain to me that the sixty-sixth section, while granting power to regulate the police of the city or village, cannot be enlarged to include power to regulate the price of gas. . . . The mere laying of gas pipe, and the installation of gas plants, together with their repair, are the subject matter of a power widely separable in circumstance from the power to deal with the rates at which gas shall be manufactured and sold. The first belongs naturally to the city whose streets are to be occupied, for it is related intimately with the supervision of streets; the latter, with equal reason, is foreign naturally to the city. . . . Until there is legislation, more unmistakable than the language used in this section, to indicate a purpose to grant the city power to fix rates, I shall not hold that such was the legislative intent. Unquestionably the power resides somewhere in the State, but until consciously delegated to some other body, it remains in the State's general repository of power, the General Assembly of the State."

And finally the case of State ex rel. City of St. Louis *vs.* Laclede Gas Light Co.[1] was a mandamus action to compel the respondent company to comply with an ordinance of the relator city and supply gas to consumers at not to exceed ninety-five cents per thousand cubic feet, being a reduction from one dollar and twenty-five cents per

[1] 102 Mo., 472.

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thousand. In denying such power in the city by virtue of the police power vested therein, the court expressed its opinion in the following clear language: "It is not open to doubt or dispute that this power to make and vend gas carries with it as an inevitable incident the right to fix the price of the gas thus made and sold. . . . So that, by the terms of the charter of the respondent company its right to fix the price of its product was as much a part of its charter as if it had been in terms set forth in section 5 of the original act of incorporation. But, if a price had thus been set forth, no one familiar with constitutional principles but would at once deny that the right to contract for the sale of gas at such price could anywise be impaired. . . . But certainly there is a limit in this regard over which legislatures and municipalities cannot pass; they cannot, in the exercise of assumed police powers, violate charter contracts and overthrow vested rights. On this subject Judge Cooley aptly says: 'The limit to the exercise of the police power in these cases must be this: The regulations must have reference to the comfort, safety or welfare of society; they must not be in conflict with any of the provisions of the charter; and they must not, under pretense of regulation, take from the corporation any of the essential rights and privileges which the charter confers. In short, they must be police regulations in fact, and not amendment of the charter in curtailment of the corporate franchise.'"[1]

Where authority is expressly conferred upon the municipality to fix the rates at which public utilities may be supplied to its inhabitants by private capital, the courts agree that such municipality may fix these rates but they must be

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reasonable; for the state cannot by itself or any of its agencies deny to the owners of private property a fair return for its use at a just valuation. To permit this would amount to a deprivation of property without due process of law. The principle is stated to be the general rule of law by the Supreme Court of the United States in the leading case of San Diego Land, etc. Co. *vs.* National City,[1] and in many other cases. In the course of this opinion the court defines what constitutes "reasonable rates" as follows: "What the company is entitled to demand, in order that it may have just compensation, is a fair return upon the reasonable value of the property at the time it is being used for the public."

Where the rates fixed by the municipality acting under proper authority are not reasonable, redress may be had by the party injured at the hands of the courts for they stand ready on good cause shown to enjoin the enforcement of an ordinance reducing such rates below what is fair and reasonable. The fixing of rates, however, is a legislative act requiring the exercise of discretion and will not be interfered with by the courts unless, as is said in the case just referred to, "they are so plainly and palpably unreasonable as to make their enforcement equivalent to the taking of property for public use without such compensation as under all the circumstances is just both to the owner and to the public." As this same court has said in another case: "The extent of judicial interference is protection against unreasonable rates."[2]

[1] 174 U. S., 739.

[2] 143 U. S., 339. To the same effect and for the further definition of the term, "reasonable rates," see San Diego Water Co. *vs.* San Diego, 118 Cal., 556; Brymer *vs.* Butler Water Co., 179 Pa., 231; Des Moines *vs.* Des Moines Waterworks Co., 95 Ia., 348; Capital City Gaslight Co. *vs.* Des Moines, 72 Fed., 829; New Memphis Gas & Light Co. *vs.* Memphis, 72 Fed., 952; State *ex rel. vs.* Cincinnati, etc., Co., 18 Ohio St., 262.

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The case of Milhau *vs.* Sharp[1] decided as early as 1854 that a statute, providing that certain municipal corporations should have the power from time to time to regulate the rates of fare to be charged by street railway companies could not be defeated in its operation by a resolution of any such municipality forever waiving such power by a perpetual grant to a certain company to erect and operate a street-railway system in Broadway, New York City. In perpetually enjoining such action by the company for the reason that such resolution was void the court said: "An ordinance regulating a street is a legislative act, entirely beyond the control of the judicial power of the State. But the resolution in question is not such an act. Though it relates to a street, and very materially affects the mode in which that street is to be used, yet, in its essential features, it is a contract. Privileges exclusive in their nature, and designed to be perpetual in their duration, are conferred. Instead of regulating the use of the street, the use itself, to the extent specified in the resolution, is granted to the associates of the Broadway railroad. . . . The licenses contemplated by the resolution must therefore be regarded as perpetual and irrevocable. If it takes effect at all, the right of way, now vested in the corporation, so far as it is necessary for the purposes of the defendants, will become vested in them. The exercise of the legislative powers of the corporation, in respect to that street, must be in subordination to the vested rights of the defendants. We have already seen that a corporation cannot, without the consent of the legislature, thus divest itself of its own powers. The resolution itself is, therefore, unauthorized and void."

[1] 17 Barb. (N. Y.), 435.

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CHAPTER X

Conclusions

In what has been said the endeavor has been made to indicate what has been the attitude of our courts toward the question of the municipal ownership and operation of public utilities by showing what have been their decisions on the points of law which affect both the power of municipal corporations to extend their sphere of activity and the facility with which they might exercise the powers pertaining to this general subject which are regarded as inhering in them.

By way of stating the conclusions which have been reached it may be said 1st. Municipal ownership and operation is regarded by the courts as quite consistent with our constitutional system. There is no constitutional objection to the grant by the legislature of the widest powers relative to the municipal ownership and operation of public utilities. Only one case casts any doubt upon the power of the legislature to permit a municipality to enter into the field of business. This is Opinion of the Justices[1] which regards as improper the attempt of the legislature to permit a city to establish yards for the sale of coal and wood. The courts further have given the widest possible meaning to the term "municipal purpose" in our constitutions where by the terms of those instruments cities were forbidden to exercise the power of taxation or to spend public funds for other than such purposes.

[1] 155 Mass., 598.

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2nd. The courts have further with few exceptions in their consideration of the powers possessed by municipal corporations adopted the principle of liberal construction where its adoption was necessary to permit the corporations to extend their sphere of activity in order to render to their inhabitants the services so necessary in modern urban life, and have with this purpose in view developed the idea of powers implied from the very nature of such corporations as organs for social service.

3d. With the idea that municipal corporations, which have entered into what is often called the field of private business, are really discharging a service which is just as public in character as the preservation of the peace, the care of the public health and safety or the care of the poor, the courts have also refused to make any distinction between the property used for these so-called commercial purposes and that used for the so-called governmental purposes, and have therefore denied that one class of property is to be taxed any more than the other or is to be governed by any more liberal law as to its sale or alienation. The courts do not of course take the view that it is not subject to taxation or alienation but merely that as property devoted to a public service it is untaxable and inalienable in the absence of statutory provisions to that effect.

4th. With the same idea in view, that what we call public utilities are public whether in public or in private hands, the courts have assumed that the interests of the public must be the guiding influence upon them in their decision as to the powers possessed by municipal corporations in the grant to private companies of these public utility franchises.

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power of municipal corporations in the absence of statutory authority to grant exclusive franchises and to imply any exclusiveness in a franchise where any other reasonable construction was possible in case it was recognized that the corporation granting the franchise had the legal right to make it exclusive.

5th. Believing finally that competition alone would be ineffective to secure reasonable rates in an industry which in the nature of things is largely monopolistic in character, the courts have regarded the legislature as possessed of the power of regulating the rates that might be charged by public-service corporations. They have at the same time, either because they feared too drastic action by municipal corporations or because of a reluctance to abandon the rule of strict construction of municipal charters, denied that a municipal corporation had the right, in the absence of statutory provision to that effect, to regulate these rates except where it had reserved to itself such power to regulate in the franchise at the time of its grant.

In laying down these rules the courts have been strongly influenced by the feeling that the controlling motive of the private companies was that of the pecuniary advantage of their stockholders, and that unless checked this motive might result to the public disadvantage. On the other hand they have frequently called attention to the fact that the motive actuating municipal corporations was public service rather than private advantage. They have therefore recognized that in the absence of legislative authorization a private company operating a public utility might sell out to a municipal corporation, although a municipal corporation could not reverse the process.

While finally the courts have naturally not been called upon to decide the expediency or inexpediency of the policy of municipal ownership and operation of public utilities,

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since they have regarded the decision of this question in concrete cases as not a judicial matter but rather a question for the municipality concerned to decide for itself within the limits of the statutes, they have in a number of instances not hesitated to voice the feeling that the trend of modern thought was favorable to municipal ownership and operation.

In the case of Mayo *vs.* Town of Washington,[1] decided in 1898, Clark, J., in a dissenting opinion which is later expressly upheld by the court in the case of Fawcett *vs.* Mt. Airy,[2] in speaking of the relation of the court to the matter of municipal ownership and of the tendency of such ownership to become more fully established in practice, says: "It would seem, however, that city ownership of water as well as electric lighting plants is a matter vested in the discretion of the city government. Light and water, sewerage and sanitation, paving and fire protection are necessities, and are objects to be obtained by municipal organization. . . . There is an unmistakable trend the world over toward municipal ownership of lighting, waterworks, and even (to some extent) street railways. Judge Dillon refers to this, and intimates that it is commended by wisdom and sound policy.[3] In Germany two-thirds of the cities own their electric lighting and car plants, and the proportion is increasing. The same is true of the other countries of continental Europe, there being a great increase in municipal ownership since Judge Dillon wrote. In Great Britain and Ireland 203 cities and towns, being in fact every city of any importance save 5, own their lighting plants, not only for their own corporate uses, but for

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furnished to the citizen, with a profit, too, to the municipalities is 54 cents per thousand. In this country, too, a large number of cities own their gas plants. . . . A large and increasing number of cities and towns (already over 200) in the United States, own their electric lighting plants, with the result that the cost to the municipalities, from official reports, is less than one-third of the average cost in cities buying their lights from private companies. The number of cities in this country owning their waterworks is 1690 out of a total of 3196 having water supply; and municipal ownership is steadily increasing. In the 50 largest cities in the Union, 19 have recently changed from private ownership to municipal ownership, leaving only 9 of the 50 which are still dependent for their water supply on private companies. . . . The general movement of the age in which we live is towards the ownership and operation of these franchises by the people of towns and cities, for themselves, through the agency of their municipal corporations, as one of the recognized and chief purposes of town and city charters."

This case has been quoted from at length for its statistical value especially and for the conclusions drawn by the Justice after an apparently extensive study of the question. The facts speak for themselves and indicate that the municipal ownership of the plants providing these public utilities in towns and cities was widely established at the time of the writing of this opinion, and that the tendency as indicated by such facts is toward a rapid increase of such ownership.

In the decisions of the courts in connection with this subject no suggestion is found indicative of anything but the utmost confidence in the principles involved, nor are any reasons assigned for denying their broadest application in practice. And the attitude of the courts on such a subject, it is believed, gives the most conservative and

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accurate indication of the tendency of the times and of the probable solution of the question.

That the public interests are best conserved by municipal ownership is fully recognized and forcibly expressed by the court in the case of Ogden City *vs.* Bear Lake, etc., Waterworks Co.,[1] to the effect that, "the people usually get fleeced when the city places its waterworks in the hands of private parties. Public-spirited men are not at all times free from the undue influence of self-interest." But whether the municipality finds that the amount of control necessary in any case requires the municipal ownership of the plants which provide it and its citizens with these public utilities, or only the ownership without the operation by the public, or merely the statutory regulation of private plants, it is submitted on the authorities herein given that the attitude of our courts favors a decided increase in the sphere of municipal activity.

[1] 52 Pac., 697.

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THE BUDGET IN THE AMERICAN COMMONWEALTHS

BY

EUGENE E. AGGER, Ph.D.,



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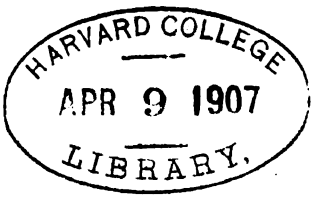
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PREFACE

In the preface to Professor Burgess's work on Political Science and Constitutional Law one reads the following words: "It is, indeed, a serious thing to ask the world to read a book. It should never be done unless the book answers a purpose not fulfilled, or not so well fulfilled by some book already existing." Ever since the author of this monograph read that statement his own conscience has been troubling him sorely. The need for some treatise on the subject with which this one purports to deal has been, of course, generally recognized; but whether the pages here offered meet this need to a degree that justifies their publication is a question concerning which the author has been harassed by numerous doubts. Now, however, it is too late to retract, and therefore the author fondly cherishes the hope that at least somebody may find something of interest somewhere within these pages, and if such person be only induced to go into the matter a little further, the author will feel that what he has attempted has not been entirely in vain nor absolutely without justification.

In the second place, the author desires to explain that in only a few cases has he been able to go into the court decisions, concerning certain points that are discussed in the body of the monograph. The reason for this was that he found that such decisions were entirely too numerous to

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tude to all those who in divers ways have helped him in the preparation of this monograph. Certain acknowledgments are made in the text and emphasis is laid upon them at this place, but it is to Professors Seligman and Seager of Columbia University that the author is most deeply indebted and it gives him the keenest pleasure to express to them his sincere appreciation and gratitude. The author is also indebted to officials in every state of the Union for the kindness with which they answered numerous questions concerning conditions and practices in their respective states and to them, without attempting to give a full list of their names, he expresses grateful acknowledgments. To the others,—friends at Columbia and elsewhere,—who have been of service to the author in manifold ways during the preparation of this monograph, he expresses again his sincere thanks, and he trusts that they may never want for the kind of friends that they have been to him.

EUGENE E. AGGER.

Columbia University, 1907.

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West Virginia: Code of West Virginia. Compiled by John A. Warth, Charleston, W. Va., 1900.
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CHAPTER I

THE BUDGET RIGHT IN THE AMERICAN COMMONWEALTHS

WRITERS on financial subjects have always taken a peculiar satisfaction in pointing out how almost all the great struggles in constitutional history have been more or less intimately connected with the question of budget right. Nor has the emphasis thus laid upon the control of the public purse been in any sense a false one. It may be true that if monarchs and potentates had exercised wisely the powers that were entrusted to them, the mere question of budget right would never have been made the subject of revolutionary contention. But in that event it would probably also be true that the world would never have seen constitutional struggles of any kind. It is because the rulers of the world failed to rule with wisdom and moderation that this fundamental principle of modern constitutionalism, namely that the right to vote the taxes and the expenditures of the state is inherent in the people who pay the taxes, came to be insisted upon even to the point of violence and bloodshed. Long, long ago it was recognized as a truism that "he who controls the finances of a state controls the nation's policy" and our forbears acted wisely when they held firmly to this ancient Teutonic principle of budget control. As Professor Henry C. Adams points out, "the extent to which this right is recognized may be re-

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tionalism is the idea, budgets are the means by which that idea is realized." [1] This being so, it would seem to be difficult to overemphasize the importance of the rôle that this simple rule of financial control has played in the great drama of world progress and our financial publicists have not, in making this fact so prominent, overstepped the limits that a just regard for truth imposes.

The development of the budget right in the commonwealths of the United States, however, lacks the intense dramatic interest that great conflicts and bloody strifes have given to the development of the right in general history. In colonial days there were occasional struggles between the governors of the colonies and the representatives of the people,[2] but after independence was achieved, in a revolution that was itself based essentially upon the issue of budget right, the principle became too firmly established in the American mind and practice ever to need reinforcement or ever even to suggest to an ambitious executive that it might be attacked with success.

With the adoption of the Constitution of 1787 this cardinal principle of popular government was very naturally embodied in the fundamental law of the land. Others have already discussed the application of it in the affairs of the national government [3] and it is not presumed that anything remains to be added to that discussion in this place. There is, however, some need of speaking more particularly about the matter in connection with the various commonwealth or state governments.

[1] *The Science of Finance*, p. 116.

[2] See for instance, Wm. Z. Ripley, *The Financial History of Virginia*, New York, 1893, chap. v; and C. S. Bullock, *Finances of the United States* 1775-1789, University of Wisconsin Bulletin, 1895.

[3] See for instance, Ephraim D. Adams, *The Control of the Purse in the United States*, in the Kansas University Quarterly, vol. 2.

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I. *THE PROVISIONS OF THE GENERAL CONSTITUTION:*

The Constitution of the United States says nothing about the form of the various commonwealth governments except in Art. IV, Sec. 4, according to which the general government guarantees to the states a republican form of government. But the Constitution does not itself define what shall be considered a republican form of government, although it is, perhaps, to be presumed that it means a government patterned, in a general way, after the central government. Concerning this point Professor Burgess says, "The qualities of representation, limitation, distribution of powers between independent departments, co-ordination of departments and election must be regarded as the essential elements of what is known as the republican form of government." [1]

Accepting then this definition of the republican form of government, the question with which we are concerned is, what does this constitutional guaranty imply as regards the budget right in the various states? According to the definition, the Constitution of the United States requires that the state governments be representative and that there be independent yet co-ordinate departments among which the various governmental powers are distributed, *viz.*: the legislative, the executive and the judicial. But as the levying of taxes and the appropriation of public moneys is everywhere regarded as a legislative function,[2] the exercise of

[1] John W. Burgess, *Political Science and Constitutional Law*, p. 153.

[2] Concerning taxation, Judge Cooley says: "The power of taxation is an incident of sovereignty, and is possessed by the government without being expressly conferred by the people. It is a legislative power; and when the people by their constitutions create a department of government upon which they confer the power to make laws, the power of

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that function may be considered as essentially guaranteed to the legislative branch of the commonwealth governments. It may be said therefore that the Constitution of the United States guarantees to the people of the states that the budget right within each commonwealth or state shall be exercised only by the legislature elected by and representing the people.

But at this point it becomes necessary to call attention to the fact that there is essentially a distinction between the budget right and the exercise of that right. The right itself is lodged in the people, while the exercise of that right is of necessity vested in the "government." Yet the people can and do put certain limitations and restrictions on their governments in the exercise of the budget right. The full right is, of course, an incident of sovereignty, and because in the United States the people are sovereign they have put some limitations upon the exercise of their sovereign right by the governments which they have constituted. This distinction sets the financial operations of the state and the federal governments in a somewhat clearer light and the necessity of mentioning it here will become more and more apparent as the argument progresses.

Assuming that the Constitution of the United States guarantees to the people of the commonwealth that the budget right shall be exercised only by the commonwealth legislature, we find that the Constitution does, however, itself put certain limits on the exercise of this right. These limits extend, however, only in one direction; that is to say, they affect only the taxing power. In the field of appropriation or expenditure the commonwealth's power is prac-

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that is contrary to the Constitution or the laws of the United States. The restrictions on the taxing power are as follows: Art. I, Section X, p. 2, says, "No state shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imports laid by any state on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and the control of the Congress." Paragraph 3 also provides that "No state shall without the consent of the Congress lay any duty of tonnage . . . . . ." In these two sections are found all the expressed limitations of the commonwealth's taxing power that the constitution of the United States contains. The Courts have, however, added another, namely that the state may not tax the property of the United States or the instrumentalities of the general government. The following quotation from Professor Burgess's work sets forth the situation clearly. He says, after referring to the forbidden export and import, and tonnage duties; "So far as the express provisions of the constitution are concerned, the commonwealths may tax everything else, to any amount and in any manner they may deem proper. The Court, however, has decided that the commonwealth cannot tax the property of the United States and the instrumentalities of the general government, and that when both Congress and the commonwealths tax the same subject the general government has precedence and must be first satisfied." [1] It may be concluded then that, with exception of the limitations here referred to, the

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Each state has a constitution of its own which is the fundamental law within its particular domain, and each of these constitutions provides more or less in detail just how the budget right that is vested in each commonwealth by the Constitution of the United States is to be exercised. Thus we find, in addition to the comparatively few provisions that embody the cardinal principles of budget right and that are contained in the constitutions of all states where constitutionalism exists, that there are also, as a rule, in the constitutions of the American states numerous other provisions which are restrictive in their nature. Some attention will now be given to these principles and restrictions.

II. *PROVISIONS IN THE STATE CONSTITUTIONS EMBODYING THE BUDGET RIGHT:*

Consideration will first be given to the application, in the various commonwealths, of those principles, which, as was stated above, are usually looked upon as representing, in their entirety, the embodiment of the budget right.

The first of these principles concerns the right to order the tax levies and demands that all taxes shall be levied only with the consent and by the authorization of the people or their accredited representatives. Yet in only eight of the states do we find this principle expressed in the written constitution.[1] The manner of expression is not always the same, but the same general idea is aimed at. Sec. 3 Art. IX of the constitution of Florida provides for instance, that " No tax shall be levied except by law." The Wyoming constitution on the other hand provides that, " No tax shall be imposed without the consent of the people or their

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principle definitely expressed in only eight of the commonwealth constitutions, it does not imply that any other principle is recognized in the practice of the other states. On the contrary it is a principle that is everywhere accepted in the United States and is considered by Americans to be such a "self-evident truth" that thirty-seven states have not considered it necessary to embody it specifically in their written constitutions. Short shift would be made of any executive who tried to levy a tax on his own responsibility.

The second general principle is a sort of corollary of the first and provides that all revenue bills shall originate in the more popular branch of the legislative body. Stourm in his excellent work, "Le Budget" [1] discusses the working-out of this principle in the various foreign countries and more particularly in France. Almost every constitutional history of England will give some information about it in England, while Mr. Ephraim D. Adams's monograph on "The Control of the Purse in the United States" [2] discusses the same subject in connection with our own national government. Both M. Stourm and Mr. Adams point out that this principle has come to embrace appropriation bills as well as the bills passed only with the view of raising revenue. This was, of course, the logical and necessary implication. Of what avail would it be to say that such and such a tax could or could not be levied if the proceeds of any and all taxes might be spent in whatsoever way the executive saw fit? A mere granting of the right to levy constitutes a very small part of financial control. Appropriations and expenditure are so important that a direct control of them by the people is quite as necessary to a com-

[1] René Stourm. *Le Budget*. Paris. 1880

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plete control of taxation, as is the control of those measures which are intended to produce the revenue.

In the commonwealths, however, this principle has really little constitutional significance. The state senators are just as truly representatives of the people as are the members of the lower houses. They owe their offices to the direct election of the people and are therefore responsible to the people for their acts. The only difference between the senators and the members of the lower houses, is that there is a smaller number of senators and the basis of representation is thus a little larger. Then in some states the terms of the senators are longer than are those of the members of the lower house. At best, the question of popular control as between the lower houses and the senates is simply one of degree, and therefore the need for a constitutional enactment, vesting in the lower house the sole control over financial matters is, from a constitutional point of view, almost entirely imaginary.

It does not surprise us therefore to learn that, out of the forty-five states of the Union, only nineteen require that bills for raising revenue shall originate in the lower house, while in the constitutions of nineteen others it is specifically stated that any bill may originate in either house and having originated in one house may be amended in the other. Furthermore the constitutions of the remaining seven states contain no provision at all on the subject. The constitutions of Louisiana and Nebraska do, however, specifically require that appropriation bills shall originate in the lower house, although the Nebraska constitution is one of those in which the Senate is given the right to originate revenue bills. In general then it would seem true, that however im-

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states, in the majority of cases, did not and do not now, consider it as one which needs to be carefully safeguarded in their commonwealth constitutions.

With these varying constitutional provisions we rather naturally expect to find a considerable variation in practice. And in this respect our expectations are realized. Yet the whole matter is of such comparatively little importance from both a constitutional and financial point of view that a very detailed consideration would not be justified. A few general statements may not, however, prove superfluous.

As a rule, it may be said, that, in those states where the constitution does not vest the lower house with the right to originate revenue bills, the upper house or the senate, does nevertheless concede the right when a strictly revenue measure is concerned. But as to bills in which the revenue received is only an incidental consideration, the senate is less obliging. Exceptions can of course be found to this generalization. In 1905 for instance, the Iowa Senate originated the bill which fixed the tax-rate for the fiscal period. And as regards appropriations it may be said that, as a rule, wherever the state legislature observes the custom of passing a general appropriation bill these bills originate in the lower house. Yet cases can be found where the senate has originated general appropriation bills that have met the approval of the lower house. This is not infrequently true in Tennessee. In not a few cases the bill making appropriations for legislative expenses is regularly a senate bill. Moreover the senate never hesitates to amend the house appropriation bills and sometimes goes to the length of substituting entirely new bills for them. Finally as regards

ratification of the federal constitution can be seen from Mr. Adams's

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the other incidental or special appropriation bills,—of which there are usually a great number,—the senates seldom hesitate to introduce these. In Connecticut most of the appropriation bills are senate bills, in other states, Kansas for instance, the number is about half and half as between the lower house and the senate, while in still others,—Mississippi for example,—there are only occasional senate bills.[1] Thus it is seen that from the point of view of actual practice as well as that of constitutional requirement, the principle that all money bills shall originate in the lower branch of the legislature, is not, in the states, one that is very seriously regarded.

Another principle which is supposed to safeguard the control of the public money in the hands of the people is the one requiring that no money shall be paid out of the public treasury except in pursuance of an appropriation by law and on the warrant of a proper officer. This principle is in some form or other incorporated in a great majority of the state constitutions. Yet it is not found in all of them. But despite this, it is not at all to be supposed that the state executive officers can in the state without such constitutional provision disburse the public moneys according to their own ideas. The fact is that the duties of the state officers,—with the governor as a limited exception,—are prescribed by the legislature and therefore, notwith-

[1] The procedure in New York is a typical instance of the American practice. The Assembly originates the three great appropriation bills, but they are always radically amended in the Senate. The Assembly regularly refuses to concur, and these bills in their final form are the result of a conference committee made up of the House Committee on Ways and Means and the Senate Committee on Finance. Incidental

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standing the lack of express constitutional requirements, the legislature itself can see to it that this very essential principle is observed. It goes without saying that this is, indeed, uniformly the case. Where the constitution does not provide that payments out of the treasury be made on the warrant of some specified officer, pursuant to an appropriation by law, the laws of the state which regulate the duties of the various state officers do so provide.

The last principle which may be considered fundamental to budget right is that which demands that a complete and comprehensive report be given to the representatives of the people, of all the receipts and expenditures of the state, for the period intervening since the last of such reports was made. Where the legislature meets annually the principle demands an annual report but where less frequent sessions are the custom, the report may be made biennially or triennially as the case may be. The principle implies also that the competent and responsible official shall submit with such report, some estimate, more or less detailed, of the amount of funds that will be required for the next period. This particular phase of the principle is however almost without significance in the United States, and as it comes up for discussion in the chapter on the "Preparation of the Budget," further consideration of it may be waived at this point. But most of the state constitutions specifically provide for a periodic report on the state finances to the state legislatures. Yet in the case of a considerable number the necessity of such reports was regarded as another one of those "self-evident truths" which needed no special mention. Moreover here again it becomes necessary to remember that the regulation of the duties of the state officers is a preroga-

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As a matter of fact these reports from the state officers who are in any way concerned with the collection or disbursement of public money are universally required in the states. Almost uniformly also, they must be printed for more or less general distribution covering periods varying from three months to two years, with monthly statements, very often, between the longer and more detailed reports. Thus not only the people's representatives but the people themselves, generally, can keep informed about their state's financial affairs.

It is in these principles, expressed or implied, then, in the various commonwealth constitutions that the basis of budget right is found. Other less important provisions might be discussed but this is needless. The full control of the public purse by the people is so fundamental to our institutions that it is almost inconceivable that it should ever be successfully attacked. The American people realize that today they need not concern themselves with constitutional principles. These are established and accepted once for all. The aim now is toward more effective administration and control.

III. *THE RESTRICTIONS ON THE EXERCISE OF THE BUDGET RIGHT:*

(*A*) *Nature of the Restrictions:* The struggle of constitutionalism has been in general a struggle against the executive. Those principles which we have in mind when we speak of budget right are principles that limit the executive—that put him more effectively into the control of the popular branch of the government. But a mere glance at the con-

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in restrictions of a multiform variety. It is true that some other states have restrictions upon their legislatures,[1] but in these cases the restrictions represent the advantage that the executive power is still able to maintain, an advantage that the people have not yet been able to overcome. But in the American commonwealths where the people's power is absolute, such restrictions mean something altogether different. They mean practically that the people's elected representatives cannot always be trusted and that it is better to define pretty clearly some of the things that the legislature may not do. When it is considered that the older states originally had none of these restrictions and that they came to be embodied in subsequent constitutions as a result of bitter experience, such restrictions, taken as a whole, form a rather suggestive commentary on our particular kind of representative government.

It was pointed out above[2] that there is an essential distinction between the budget right and the exercise of that right. The right itself is an incident of sovereignty while the exercise of it is vested in the "government." In England and France where the parliaments represent the sovereign organization of the people the exercise of the budget right by the parliaments is quite unrestrained. Both in the field of revenue and in that of expenditure the action of parliament is final unless rescinded or modified by a subsequent parliament. But in Germany, as Professor Henry C. Adams points out,[3] there is not found this absolute power. "German jurists assert that the power of the Reichstag to withhold supplies is limited by the established institutions and principles of the empire." Then too in Germany the army supplies must be voted for a period of

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seven years. But these restrictions that are placed upon the Reichstag represent restrictions upon the German people themselves. They are the relics of absolutism that still survive in Germany. In the United States we find that in both the general government and the various state governments, restrictions on the exercise of the budget right have been placed, but these restrictions are altogether different from those found in Germany. In our country they represent the preponderance of popular control. They are limits placed upon the activity of the representatives of the people, by the people themselves, instead of restraints that measure the extent to which the people are still under the authority of their executive.

The restrictions placed upon the states by the federal constitution have already been referred to, so that there is no need of mentioning them further here. We are concerned now with the further restrictions that the state constitutions impose.

These restrictions are of various kinds, in some cases having to do with even the minutiae of administration. It must not however be supposed that all the states impose all of the restrictions that may be referred to, nor even that any one state imposes all of them. Although there are a few states which impose most of them, as a general thing any particular restriction is found in comparatively few of the states. But they must be taken as a whole nevertheless and looked at in their entirety to appreciate their full significance, because they represent a tendency in the development of American state legislative practice and more particularly in American state financial practice. Therefore they may best be considered by arranging them into general classes or groups, as follows: restrictions relating to the legislative sessions; restrictions relating to legislative procedure; restrictions relating to the raising of

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revenue; restrictions relating to appropriations and expenditure; restrictions relating to the public debt and public credit.[1] These classes will be considered in turn.

(*B*) *Restrictions Relating to the Legislative Session:*

The British parliament can at any time, by law, regulate the time and duration of its meetings. The Congress of the United States also can decide this question for itself as long as it meets "at least once a year." Our forefathers took a peculiar satisfaction in the frequent meetings of their representatives. They believed that the representatives of the people could not meet too often. But in our states we find that this ardor has cooled, and indeed under the avalanche of legislation that the state legislatures regularly roll down upon us, in some states it has not only cooled but has congealed into impatience to such an extent that the legislature is now regarded as an unfortunately necessary evil.

Some of the older states still permit their legislatures to meet annually and yet there are but six that do so.[2] Thirty-eight states permit only biennial sessions, while one state, Alabama, goes even further and allows only quadrennial sessions. Mississippi in her latest constitution provided originally for quadrennial regular sessions, although midway between the regular sessions there was to be a special session at which only appropriation bills could be

[1] It is not contended that these classifications can be considered hard and fast, for it is easily possible that any particular restriction may be considered in one class as well as another. For instance, a limitation on the amount of money that can be raised by taxation in any one year, besides being a limitation relating to revenue is also essentially a limitation of expenditure, so that it might be considered in both classes. The object aimed at is simply to get a classification that will permit a fairly clear presentation.

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considered. But this provision was subsequently amended and the sessions are now to be regularly biennial. In all of the states the governors can, of course, call special sessions but at such sessions only those measures may be considered to which the governor in his proclamation refers.

Furthermore in about half of the states we find some restriction concerning the length of the legislative session. Wyoming limits the regular session of its legislature to forty days, West Virginia to forty-five days, which however a two-thirds vote of both houses may extend. A considerable number of states allow only a sixty-day session,—although Virginia by a three-fifths vote of both houses permits a thirty-day extension. California, Nebraska, Rhode Island, Kansas and Tennessee without definitely limiting the term in this way, do limit the number of days for which a legislator will be paid—which amounts practically to the same thing. Some states also limit the duration of special sessions.[1]

(*C*) *Restrictions Relating to Legislative Procedure:*

The restrictions that are referred to in this class have to do with certain things which might be expected to be dealt with ordinarily in the rules of the respective legislatures themselves. In general they are aimed to prevent eleventh-hour raids on the treasury and otherwise careless and loose legislation that might be forced through without due consideration.

In some half dozen of the states we find, for instance, that no law can be passed except by bill. In no less than twenty-four states there is a specific provision also, that no law shall contain more than one subject which must be expressed in its title and that no bill shall be so amended during its passage through either house as to change its original

[1] Florida, Nevada, Utah, and Tennessee.

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intent and purpose. Sometimes where this provision is found an expressed exception is made of the general appropriation bill, but where this is the case, the scope of the general appropriation bill itself is almost always rather carefully defined. And even in some states that have no provision limiting the scope of bills to single subjects, the scope of the general appropriation bill is more or less rigidly outlined. It is also provided in some cases that bills for salaries, etc., shall contain no provisions on any other subject.[1] In California the limitation of the scope of the appropriation bills is carried so far that no appropriation bill, except the general bill, may contain more than one item.

A rather common requirement also, is, that before being advanced to its final passage, every bill must first be referred to and examined and reported by a committee. This is an interesting provision because it translates into legal requirement what has long been the actual practice in all American legislative bodies. It is a frank recognition of the utility, and an unqualified acceptance, of the committee system, a system that some critics have been wont to decry.

There are restrictions of a somewhat different character relating to the quorum etc., when appropriation and revenue bills are up for consideration. In some states we find that for certain kinds of appropriation bills special votes are needed. Thus Arkansas and South Dakota, for instance, require that two-thirds of the members of each house must vote affirmatively for any appropriation other than for the public debt, expenses of government, schools and invasion, insurrection or war, before such appropriation can be validly made. Wisconsin requires a three-fifths attendance of the members of both houses for a quorum on revenue bills. Four states will allow no appropriation of money or any di-

[1] Florida, Illinois, Oregon, and West Virginia.

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version of funds by resolution.[1] Illinois absolutely forbids any appropriation in any private law while Michigan, New York, and Rhode Island require an affirmative vote of two-thirds before such an appropriation can be made. Nebraska requires a similar two-thirds vote on all deficiency bills.

Finally, the other restrictions that may be logically considered in this class are those,—more or less common,—which are aimed to prevent the introduction and the rushing through of measures of various kinds in the closing days of the session. It is a matter of common knowledge how even yet in the closing days of the session, measures are sometimes "railroaded" through, that would never have passed in the form that they did had there been time for adequate consideration. Consequently in some of the states attempts have been made to mitigate this evil by constitutional provision.

Fourteen of the states have some provision of this kind although in no two of them are such provisions identical. Colorado and Michigan prevent the introduction of any new bill whatsoever after respectively, the thirtieth and the fiftieth day of the session. Mississippi and Texas have a similar prohibition covering the last three days of the session. Maryland and Washington both require a two-thirds vote of the house wherein a new bill is sought to be introduced in the last ten days of the session, before the same can be introduced. California has a similar provision covering the period after the fiftieth day of the session. In Minnesota during the last twenty days of the session, no new bill can be introduced without the governor's "consent," while in Nebraska no new bill can be introduced after the fortieth day of the session unless the governor

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In some cases, however, these restrictions apply only to revenue and appropriation bills. Thus Mississippi will not allow either appropriation or revenue bills to be introduced during the last five days of the session. In Alabama a similar restriction applies only to revenue bills and in Louisiana only to appropriation bills. Three of the states, Montana, North Dakota and Wyoming, modify the restriction somewhat by making an exception of appropriation bills for the expenses of the government but in the other states where the restriction is found in modified form, a member who desires to introduce an appropriation bill, after the prescribed time, must first obtain the unanimous consent of the house of which he is a member and in which he seeks to introduce his bill.

(*D*) *Restrictions Relating to the Levying of Taxes:*

Restrictions may be of two kinds and may be spoken of as positive and negative restrictions. A provision demanding that a certain thing be done is a positive restriction while one that demands that a certain other thing be not done is a negative restriction. One is no less a restriction than the other because each represents a limitation upon the freedom of action.

It is necessary to refer to this here because in the various states that put restrictions upon the legislature in the exercise of the taxing power, some of these restrictions are found to be postive while others are found to be negative.

Probably the most important of all is a positive one. In seventeen states of the Union,—mostly the newer states,—is found a provision to the effect that the legislature must provide sufficient revenue for each fiscal year, to defray the estimated expenses of that year and,—as a rule also—any

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expressly or by implication interest on the state debt. This is a most interesting provision because, in a sense, it very explicitly incorporates into the law of the commonwealths a theory, that in other constitutional states, is recognized only in Germany, namely, that the legislature has not the right to refuse to grant supplies for the support of the "established institutions" of the state. It may be objected that a provision for the raising of revenue is not a provision for appropriating revenue. But such an objection would hardly hold because a clause demanding that revenue shall be provided for certain purposes, would in essence stultify itself unless it also implied that the revenue so raised had to be appropriated for the purposes specified. The courts have not, as yet, had to pass on this question and the probability is that they never will have to do so. Nevertheless the restriction itself is of exceeding interest and of not a little importance.

The other positive restrictions that might be referred to here are of a much less sweeping nature. They relate to levies for school purposes, particular kinds of taxes—such as poll taxes the proceeds of which are to be used for specified purposes, and to levies for the public debt. They are of minor importance and may be passed over without further mention.

The negative restrictions belonging to this class are, however, more numerous. The broadest of these is to be found in three Southern states, Texas, Louisiana and Georgia, where the general purposes for which alone the taxing power may be used are more or less particularly specified. In Georgia for instance the constitution provides that the power of taxation by the General Assembly shall be limited to the support of the state government and public institutions; educational purposes in the elementary branches of an English education only; to pay the interest and principal

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of the public debt; suppress insurrection, repel invasion and defend the state in time of war and to pension Confederate soldiers or their widows.[1] In the other two states there are analogous provisions.

Somewhat different in character are those restrictions relating to the tax rate. In some state constitutions the maximum annual tax rate is prescribed. In a few cases[2] this is an absolute maximum while in others certain extensions are possible or certain exceptions are made.[3] In three states—Colorado, Idaho and Utah—the rate depends upon the assessed valuation of the property in the state. As this assessed valuation increases to certain points the maximum tax rate decreases,—although in each of these three states a higher rate is permitted if the proposition to levy such a higher rate is favorably voted on by the qualified electors who in the preceding year have paid a property tax. The necessity of an increased rate will have to be very obvious before any such sanction will be accorded it! In the regulation of the tax rate the new constitution of Virginia shows a characteristic which probably no constitution, of any other state, can equal. From 1902 until 1907—or for a period of five years the tax rate on property is fixed by the Constitution.[4] It may, however, be that the object of this provision was to force the legislature to try other sources of revenue because the constitution contemplates, after 1913, a segregation of the sources of state and local revenue.

The other restrictions that might be referred to in this

[1] Sec. 5882, Constitution of Georgia, found in the Revised Statutes of Georgia of 1895.

[2] Alabama, Florida, Louisiana, South Dakota, and Texas.

[3] Virginia and Wyoming.

[4] Art. xiii, sec. 189, Constitution of Virginia, 1902.

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class relate to the sources and methods of taxation rather than the rate of the tax. The general property tax is provided for in the constitution of almost every state in the Union and the rules for assessment and exemption are more or less particularly prescribed. In three of the states[1] the principle according to which railways must be taxed is laid down while the constitution of Virginia, again in this instance, fixes also the rate of taxation.[2] In Minnesota certain of the railway tax laws must be submitted to and must receive the favorable vote of the people before they can become valid. But restrictions of this nature are not common and most of the states give their legislatures a wider latitude than do the states to which reference has been made.

(*E*) *Restrictions relating to Appropriations and Expenditures:*

A majority of the states abridge, in one way or another, the exercise of the appropriation right. The most common restriction of this class is one that relates to one of the fundamental principles in American polity,—namely the separation of church and state. About half of the states have a restriction of this kind. In some it takes the form of a broad prohibition against the appropriation of any money for religious purposes. In a number of others the prohibition extends only to appropriations for religious sects or societies while still others simply forbid any appropriation for sectarian schools. Oregon's provision is, however, the most severe for it expressly forbids appropriations even for the customary religious exercises in the Houses of the Legislature. Such a provision differs materially in spirit from

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any appropriations for religions "sects" or for sectarian purposes, although in almost all the states there are certain religious exercises connected with the opening of the daily sessions of the legislature. Ohio has some "church lands," which were set aside for religious purposes according to the terms of the Symmes purchase and which represent a trust, but this is an instance which is probably unique in American history. The absolute separation of church and state as a principle at the bottom of our institutions, has never been seriously questioned by Americans and the fact that some of the states include some provision concerning it in their constitutions, simply gives to it an additional emphasis.

A few of the states have somewhat similar restrictions concerning appropriations for institutions of various kinds not under the immediate control of the states themselves.[1] Three of the states forbid such appropriations outright.[2] The other four make various exceptions—either by specifying certain excepted institutions or by allowing such appropriations if a two-thirds vote in both houses can be mustered in favor of them.

Five of the states have certain restrictions concerning appropriations for claims.[3] Florida and Ohio allow no money to be appropriated for any claim the subject matter of which is not provided for by existing laws, although Ohio makes an exception of such claims as two-thirds of the members elected to both houses will approve.[4] In the other three states the provision requires simply that the

[1] Alabama, California, Colorado, Louisiana, Pennsylvania, Virginia, and Wyoming.

[2] Colorado, Louisiana, and Wyoming.

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claim shall not be recognized by the legislature unless it has been audited in the regular way.

Finally, corresponding to the provision prescribing a maximum tax rate, there are found in four of the states,[1] provisions forbidding the legislature to make appropriations beyond the revenue provided, unless the measure making such additional appropriations also provides an additional and sufficient tax to cover the appropriations so made. And where a maximum tax rate is prescribed there is also the provision that the aggregate tax rate shall not exceed the prescribed maximum. In these four states at least, "deficit financiering" is prohibited by law—but it must be conceded that the experiences which made it seem wise to the framers of the constitutions of these four states to include such prohibitions in the constitutions can hardly be said to have been such as scientific deficit financiering might afford! But it is doubtful whether the prohibitions are worth much after all. The revenue provided can be only estimated at best and nothing in the past gives any warrant to suppose that the legislatures would feel themselves very rigidly bound to observe such a provision even though they might, with relative accuracy, be able to estimate the revenue that was to become available for the period during which the appropriations were to run.

(*F*) *Restrictions Relating to Public Credit:*

In all but a few of the New England states there are found various restrictions that limit the extent to which and oftentimes the purposes for which the public credit may be employed. These restrictions represent, for the most part, the results of experience either of the states themselves

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Thirty-four states of the Union forbid the loaning of the state's credit to any individual or corporation,—although North Carolina and Rhode Island which are among these thirty-four will permit it in any particular case, if the people give their assent in an election held for the purpose. Twenty states forbid the subscription, on the part of the state, to the capital stock, etc., of any corporation or company. These provisions date, as a rule, from the late forties and early fifties when so many of the states entered into wild schemes of turnpike-road, canal and railroad building, from which comparatively few emerged without serious loss.

The most important of this class of restrictions, however, relate to the amounts and purposes of the public debt. Here are found all sorts of limitations ranging from absolute prohibition of all state indebtedness, except for war, invasion or insurrection, to the other extreme of practically no limitation whatsoever.

The most common provision is one which is made up of a series of distinct parts. In the first place it allows the legislature to contract indebtedness for casual deficiencies and extraordinary expenses although it limits to a specified amount the indebtedness that can be so incurred. In the second place it allows the contraction of indebtedness for any other purpose; but before the debt can be contracted, a law authorizing such a debt for a single purpose, must be passed; the law must provide for the establishment of a sinking-fund to pay the interest at stated times and to liquidate the principal within a prescribed period. The whole project must then be voted on by the people at a general election, and if at such election a prescribed majority votes in favor of the measure, then and only then, may the debt proposed be contracted. Furthermore it is provided that the money so raised can be used only for the purpose specified in the law, and the tax that is levied remains irre-

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pealable until the debt, for which it was imposed, is liquidated. Eleven states[1] have clauses in their constitutions substantially to this effect although in one or two the provisions may not be so complete. The limit for deficiencies and extraordinary expenses varies from $1,000,000 in New York to $50,000 in Rhode Island. In Idaho and Wyoming the limit is a certain percentage of the assessed valuation of the property of the state. The period over which an additional special debt is allowed to run also varies greatly. One or two states allow this to be determined entirely by the legislature while the others give the maximum number of years during which the indebtedness may be outstanding. South Carolina fixes the maximum at forty years, New Jersey at thirty-five years, New York at eighteen years, Missouri at fifteen years and so on. Some also, require the interest to be paid semi-annually while in others simply an annual interest is called for. In all vital matters the direct control of the public credit is thus, in these states, lodged with a high degree of security, in the hands of the people themselves.

Next in degree of restrictions of this kind, come a number of states which prescribe a limit beyond which *all* state indebtedness may not go, but which do not limit to any particular purpose or purposes the objects for which such debts may be contracted. Five states have provisions to this effect.[2] In four of the states there is a rigid limit expressed in dollars, though it varies as between the states themselves. Oregon places a $50,000 limit while Maine and Nevada have fixed theirs at $300,000. In Wyoming, where the limit is 1% of the assessed valuation of the property in the state,

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the limit rises in proportion to the increased valuation of property. A few other states go a step further in this policy of restriction and not only limit the aggregate indebtedness, but also specify the purposes for which such indebtedness may be contracted, requiring in some cases that every debt be voted on by the people. Then in the last group, come Florida and Louisiana which absolutely prohibit all indebtedness except for insurrection, invasion and war.

From the above discussion it appears that the American people doubt the wisdom of vesting their representatives with the full exercise of the budget right. They demand for themselves the right to control directly the essentials of the state's financial policy and this demand has been expressed in the variety of restrictions that have been passed in review. Two states have pressed this demand so far that they have incorporated in their organic law the full system of initiative and referendum.[1] This is the highest development of the tendency toward popular interference with or control of the legislature.

In the foregoing survey of the constitutional provisions embodying the budget right and the constitutional restraints that have been placed upon the exercise of that right, it has not been attempted to bring to light all the minute details and distinctions that are to be found in the American states. An exhaustive description of existing conditions would require that almost every state be taken up separately. But such a procedure would be manifestly impracticable. The aim has been not to set forth the conditions in any one state particularly, but to show in a broad and general way the basis of the budget right in the commonwealths and how the exercise of that right is limited in this direction and in

[1] Oregon and South Dakota.

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that by restrictive clauses in the various commonwealth constitutions which represent so fully the political liberty and the political convictions of the American people. It is the whole picture which is significant and too minute details must not be allowed to obscure it. In that picture can be traced not only the lines of hope and achievement but also those of disappointment and failure.

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CHAPTER II

THE PREPARATION OF THE BUDGET

Introduction:

I. The American budgetary practice differs essentially from the European procedure in the relative insignificance of the part played by the executive in America and the all-dominant part taken by the legislature. Taking England as a basis of comparison—because English budgetary procedure is so far advanced—we find that in England every important measure introduced into the legislature must of necessity be a "government" measure. The preparation of the budget especially, is regarded as a government prerogative. If any material change were made by parliament in the budget as presented by the government, the whole ministry would resign. In the United States, however, the influence of the executive branch of the government is normally a very small one.[1] The recommendations of the executive officers are clothed with no particular authority but are taken for what they are worth in the legislative assemblies. Moreover, in the United States the preparation of the budget is regarded as the preparation of a law, and, indeed, as the preparation of quite the most important law with which the legislative body has to deal, and since lawmaking is the legislature's peculiar function it has uniformly safeguarded to itself the sacred prerogative of preparing the budget.

[1] Reference is made here not so much to the President of the United States or the Governors of the various states as to the other executive officers.

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II. The causes of this overshadowing of the executive in the preparation of the budget are perhaps two-fold. In the first place our form of government has rendered it almost inevitable while in the second place our finances have never been in such a state as to render the practice dangerous.

In the United States there is a rigid separation of the various powers of government among several distinct departments. Each department is naturally very jealous of its powers and as the danger lies in the encroachment of the executive on the legislative branch of the government, our American legislative assemblies have always been careful to check the growth of any custom that might abridge in any permanent manner what they loudly insist upon as their constitutional rights. Consequently no American legislative assembly has ever allowed the executive officers to exercise such a controlling influence in the formulation of the budget as is enjoyed by the executive officers in England.

In the second place, we have never for any considerable length of time been subject to a want of funds. In normal times financial stress has never been very acute. In our national government the problem that has usually confronted Congress has been how to get rid of the large surpluses that the tariff brought in. Consequently the need of a careful and economical administration of the finances has never been very pressing and the necessity of following the counsel of the administrative officer in charge of the finances has never been recognized.

In the state governments two further causes ought to be referred to in this connection. In the first place there is not in the state any officer corresponding to the European finance minister. In fact the financial operations of the states are not sufficiently important to require such an officer. In the states the chief auditing officer, and in some cases the state treasurer, exercises a supervising authority

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over the state's finances. But this involves no direct responsibility in any way similar to that attached to the Chancellor of the Exchequer or to that of even the Secretary of the Treasury, and it is obvious therefore, that the financial officer of a state is in no position very materially to influence legislation.

In the second place it must be remembered that the states depend, for the most part, on the general property tax for the bulk of their revenue. Whatever else may be said about the general property tax it cannot be gainsaid that its return is relatively certain and constant. By an easy adaptation of the rate the revenue needed can be supplied and it takes no very keen financial perception accurately to gauge the yield. This tends to diminish even more the dependence of the legislature upon the state's financial officer and allows the legislature to feel relatively free to prepare the budget according to its own ideas.

III. The effect of all this has been therefore that there is not in our country, especially in the states, the painstaking and careful preparation of the budget that characterizes the English practice, and in attempting to give a description of this practice in the states it will be necessary to consider separately the part played by the executive and that played by the legislature. Attention will be directed first to the budget as a report and in the second place to the budget as a project of law.

PART I

THE BUDGET AS A REPORT

I. *Preparation by State Officer:* The budget as a report is prepared by some official with a supervising authority over the state finances. It is usually the chief auditing officer—although in a few cases it is the governor and in others the

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treasurer. Such an officer is required by the constitution or by statute to prepare, for the use of the legislature, a more or less complete report on the financial condition and operations of the state. It is this report which must be considered as the budget in its first stage.

II. *The Law Regulating the Contents:* It is found that the law regulating the contents of such reports makes no distinction between the report that the chief auditing officer might be expected to make and that which might be expected from the officer charged with the preliminary preparation of the budget. The requirements relating to the finance officer's duties in one direction are mixed with those relating to his duties in the other direction.

These legal requirements vary considerably from state to state. In some states[1] the requirements are very comprehensive and definite; while in others[2] they are comparatively scant. In general however it may be said that what is required is a more or less detailed account of the receipts and disbursements of the state for the previous fiscal period, a statement of the public debt, estimates of the receipts and expenditures of the state for the subsequent period and general recommendations relative to the improvement of the state's fiscal system. In addition to these general provisions there are in almost every state, certain other special requirements and without attempting to specify just in what states each one of these may be found they may be enumerated about as follows: a full account of all claims audited; a full account of the taxes received and collected showing the amount yielded by each tax; an account of the appropriations that were made for the preceding period, the amounts expended and the balances in the treasury; a statement of the separate "funds" of the state; a statement of

[1] Arkansas, California and Nevada for instance.

[2] Maine or Florida for example.

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the accounts of the states with the several counties; a statement of the assessed valuation of property in the state; an account of the taxes levied in the counties; a statement of the debts due the state; a statement of all claims against the state not provided for by law and a statement of all warrants issued, with the date of issue, to whom paid, for what purpose and under what law. As a rule also the officer making the report is supposed to include such other miscellaneous information as may appear to him to be worth imparting to the legislature. In no case are the legal provisions classified in a way that would indicate a clear perception of the difference between a mere auditor's report and a real budget.

III. *What a Budget should Show:* There are a variety of things which the budget as submitted by the executive to the legislature ought to show. It ought first to give a complete picture of the operation of the fiscal system during the previous period. The workings of the various revenue measures ought to be explained and the return from each carefully and clearly shown. On the side of expenditure the amounts expended by the various departments of the government and for the general purposes under each ought to be clearly set forth together with the appropriations that were provided for such purposes and the manner in which these have been applied. But even more important than this account of the actual workings of the system are the estimates of the receipts and expenditures for the coming fiscal period and the recommendations that are made to improve the fiscal system so that it may the more efficiently supply the revenues that are needed. It is here Stourm says, that the finance minister must show himself at his best.[1] Clearness, universality and sincerity are the high qualities that these

[1] *Le Budget*, p. 186.

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estimates must possess. Do the budgets as reported by the responsible fiscal officers in the states meet these several requirements? It is perhaps unnecessary to say that they do not, and in view of the confused legal provisions referred to above, this is not to be wondered at.

(*A*) In the first place we cannot get a clear picture of the fiscal operations of the state for the period which the report is meant to cover. It will be found that occasionally individual officers will discuss more or less at length the workings of the revenue laws, but where so much depends necessarily upon the personality of the individual himself it is to be expected that, unless custom and tradition have enforced certain principles in this particular, there will be considerable variation in the reports of the various officers as one succeeds another. As a matter of fact this variation is characteristic. The report of one officer one year may contain a clear and illuminating discussion of the workings of the revenue laws, but in the very next year his successor may touch upon the subject in only a cursory way. In some reports indeed, there is no discussion of this kind whatsoever and the officers responsible simply introduce them with a few lines to the effect that the reports are submitted according to the requirements of law. Then the general tables which should show clearly the operations of the fiscal system during the preceding period are seldom found in such a shape that they give an accurate idea of such operations. There is no grouping in any adequate way, of the parts of the report that are really related to the budget and the parts that have no such relation. Almost twenty years ago Professor Seligman pointed out [1] some

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finance reports. Practically the same difficulties are encountered today. In very few of the states has any improvement taken place so far as appears from a perusal of the later reports. The same system of accounting and the same loose practices still obtain and naturally the same confusion results. Professor Seligman did not criticise these reports from the point of view of the budget but to all intents and purposes his criticisms apply when the reports are so regarded.

(*B*) The estimates also are unsatisfactory. They too differ in character not only as between the reports in the various states but also as between those of successive officers in the same state. In some cases they cover but half a page and give simply the general heads of expenditure with the total amounts required. In other cases some attempt at particularization is made and the amounts required for the various purposes are given more in detail. In most cases the estimates of the revenue are on a net basis while both revenue and expenditure are estimated, as a rule, in general amounts or round numbers,—a fact which seems to indicate that what is aimed at is simply approximate accuracy.

In the preparation of these estimates various means of arriving at the amounts submitted are employed. When speaking of this in connection with other governments we usually refer to the "principle employed in the determination of the estimates;" but here we can speak of principles only by courtesy, because, so far as can be determined, the practice in our states is characterized by a lack, rather than by the employment, of any principle. In some cases the estimates are obviously little more than guesses. In other cases the officer responsible for the estimates simply com-

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out change. In a few cases he does consult these officers, etc., in person—"much to their disgust" writes the Treasurer of Vermont. In still other cases the practice is simply to take the appropriations that have been made for one period and to make them the basis of the estimates for the subsequent period. In New York for instance the Comptroller, Mr. Kelsey, stated that the many pages of estimates in his report constituted practically a transcript of the general appropriation bill of the previous year.

In no state have the estimates been found in such a form that they could be considered a complete and satisfactory basis for the budgetary legislation of the period for which they were intended.

(*C*) Recommendations for the improvement of the fiscal system are found in some of the reports but are entirely wanting in others. Where they are found they are sometimes comprehensive as well as clear and explicit, but it is probably fair to say that more often they are in the form of rather general suggestions. This general criticism would, however, not hold against the recommendations that are made to cure administrative defects in the existing laws. These usually seem very definite and to the point. The chief criticism, however, that must be brought against the reports from this point of view is one that applies not to the recommendations that are made but rather to the practice of so many of the states' fiscal officers of neglecting to make any recommendations whatsoever.

IV. *Conclusion:* Our conclusion must then be that in our states the budget as a report is on the whole very unsatisfactory. It is not to be supposed, however, that whatever blame this state of affairs implies is to be attached to the officers making the report. It is the system which is at fault and in the following section an attempt will be made to show why this is true.

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(*A*) In the first place it must be remembered that the officer supposedly in charge of the finances of the state has in reality absolutely no authority or control over the estimates of the various officers, departments, etc., of the government. Placed as he is in a supervising capacity over the state treasury, observing where all the funds of the state go and for what purposes, understanding better than the legislators themselves the workings of the revenue laws, —because he has to enforce them while the lawmakers do no more than their name implies, — he better than anyone else is in a position to tell what additional strain the treasury can stand or in what particular it will have to be reinforced, and he better than anyone else is able to judge of the soundness and weight of the arguments of officers and heads of departments when they ask for increases in appropriations. He may however be as careful as he can be about his estimates, he may compute them as honestly and sincerely as the severest critic could demand, and yet all his labor will be of little avail. All the other officers know that if they want an increase in their appropriations it will not serve their purpose to consult the finance officer in the matter. They know that what he recommends does not count for very much. And in the same way the auditor, or whoever else is responsible for the estimates, is well aware of the fact that however much thought and care he may devote to the preparation of his estimates it is more than likely that his figures will be disregarded. Nowhere in the states does an auditor or a comptroller exercise any real control over the estimates, and nowhere do the heads of departments or of state institutions have to come to him for any increase that they may desire. The legislative determination is always independent and final and it is to the legislature itself rather than to the finance officer that those seeking appropriations go.

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These facts are so well established that in several cases the various state officers are required to submit their estimates directly to the legislature, or if transmitted first to the finance officer they are included in his report without modification or change. Thus in Iowa and Wisconsin the Board of Control submits the estimates of the needs of the various state institutions directly to the legislature. In New York the State Superintendent of Public Instruction submits the estimates of school moneys, etc. and the Fiscal Supervisor of Public Charities submits estimates for the various state charitable organizations. In North Carolina both the auditor and the treasurer are required to submit complete sets of estimates.[1] In Massachusetts the officers and the boards are required annually to send to the auditor "estimates in detail and tabular form"[2] but these estimates are embodied without change by the auditor in his report to the legislature. In Connecticut alone do the laws give the finance officer any semblance of authority over estimates. In Connecticut the Treasurer in connection with the Secretary of State, prescribes the rule according to which all estimates must be itemized. The law requires that for each department, etc., a specified officer shall prepare the estimates and submit them to the Treasurer according to the form prescribed by him and the Secretary of State. It is further required that whenever any material increase or variation of expenditure of the previous year shall be made the person responsible must give the reasons.[3] This gives the Treasurer an opportunity to combat the "reasons" or the arguments advanced and materially enhances his influence,

[1] Laws of North Carolina, vol. 2, ch. 44, sec. 3350, and vol. 2, ch. 23, sec. 2864.

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but unless a serious oversight has been committed it may be said that Connecticut stands—in this particular—alone.

The practical worthlessness of the estimates submitted by the finance officer is of course generally recognized, and where they are still required it is merely because that is the usual custom or because of some other reason of similar significance. In some states the situation is squarely met and the officer responsible is relieved of the duty of submitting any estimates at all.[1] It was as recently as 1904 at the present Comptroller's own suggestion that the legislature of New York amended the law regulating the duties of the Comptroller so that now the usual estimates of receipts and expenditures are not required to be submitted in his report. When questioned about this the Comptroller stated that the several pages of estimates were simply so much "padding" in his report and declared that the only one who obtained any benefit from them was the state printer.

(*B*) In the second place the finance officer has no constitutional right to defend his estimates before the legislature; that is to say, after once the estimates have left his hands his authority over them—such as it was—ceases. He may or may not go before the legislative committee and urge their acceptance but whether he does or not depends upon the individual. In Connecticut the information is vouchsafed that "it is customary" for the treasurer to appear before the legislative committee. The present auditor of Delaware writes that he has done so but so far as he knows none of his predecessors in office did. The Missouri auditor writes that it is the usual practice of the auditor to appear before the committee not so much to urge the ac-

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ceptance of the estimates as to explain them. The North Dakota auditor claims that he is "never asked" to appear before the Committee and consequently he does not do so. The Virginia auditor says that if the committees need an "explanation" from him they send for him and he adds also, "I have no voice in legislation so I do not volunteer my opinion." Thus it is seen that the practice in this particular varies from state to state and often from time to time in the same state. The constitutional standing of the finance officer before the committee is, however, in no sense different from that of any other individual who may ask to be heard.

(*C*) In the third place the finance officer soon learns that however conscientious and painstaking he may be, his recommendations are disregarded. His seemingly pre-eminent position in being able to determine accurately what the estimates should be is not recognized. There is a complacent self-sufficiency about the normal legislator which defies attack. He admits only with painful reluctance that anybody has qualifications superior to his own to judge of the essential wisdom of any particular course of action and especially in the matter of appropriations the idea that a mere official should have more authority than he is utterly repugnant and offensive to him. Therefore he will never consent to bind himself to the finance officer's estimate and almost uniformly certain considerations make it seem advisable to him to depart from them.

Moreover, the recommendations that the finance officer makes for the improvement of the revenue system are also treated, as a rule, with but scant courtesy. If such an officer be a strong man personally and one of the party leaders,

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bility and efficacy of any particular measure and the advice that he gives might be expected to be sound. But as a rule his advice shares the fate of all good advice. In Germany and Japan, it is said, expert advice is accepted because it is expert advice, but in America we reject it for the same reason. In Alabama, it is true, the Governor, Auditor and Attorney General, before each regular session must prepare a general revenue bill which must be presented to the legislature, but the law distinctly specifies that this is only for the legislature's "information," and in North Carolina also it is the duty of the treasurer to present in addition to the estimates of the state expenses, "a scheme in the form of a complete revenue bill to sustain such estimates." [1] A dozen examples could however be adduced to show that our state legislatures, as a rule, pay no attention to the "plans and recommendations" which they require from the finance officer. One example is given here that was chosen for its moderation. It is found in the report of the Auditor of Nebraska: "My predecessors in office for a number of years past have called attention to the gradually increasing debt of the state and a necessity for a revision of the revenue laws. Recommendations made have passed unheeded by successive legislatures." [2] Every one who has had occasion to read over reports of the state auditors and comptrollers will remember how often similar statements are found. No state finance officer can be said to be even remotely responsible for the state's fiscal system.

V. *Unfavorable Reaction:* The absence of any real authority over the estimates, the inability adequately to defend the estimates that are submitted and the disregard which is accorded the recommendations when presented to the

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cers in the states. When a large measure of control is given and an officer is held accountable for the showing that is made, his very self-interest will demand that he conduct his office in the most efficient way and that he present the result of his administration with thoroughness, clearness and accuracy. But it has been indicated that nowhere in the states does a finance officer exercise any real financial control. In the matter of estimates for instance, he knows that however much care and forethought he may devote to their preparation, the results of his labor are almost sure to be disregarded. Very naturally he asks himself the use of wasting time and thought on such a task—because in reality there is no use of doing so—and he therefore prepares his estimates in a perfunctory way simply to obey the law. This in fact characterizes his habitual attitude and accounts in large measure for the insignificance of the budget as a report in the states. Where no responsibility is given it cannot be expected that any will be felt.

VI. *Criticisms:* The criticisms that are to be made against the practice as thus established are entirely financial in character. An inadequate report on the operations of the fiscal system means that its workings will not be entirely understood and that intelligent action for the future is rendered correspondingly difficult. The failure of the legislature to obtain complete and carefully prepared estimates of receipts and appropriations makes it probable that the scheme of expenditures will not be as efficient as it might have been and that the adaptation of the revenue system will be faulty. In other words balance and equilibrium will probably be wanting in the budget. This is indeed uniformly the case in the states. In the last place the failure to follow the

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in due season and to consequent disaster. In general, also, loose practices stimulate carelessness and extravagance not only on the part of officials but also on the part of the legislature itself. These are qualities for which, indeed, most of our state legislatures have been consistently distinguished.

VII. *The Future:* What the outcome may be is somewhat problematical. The great development of municipal activity and the resultant increase in municipal expenditure in this direction and in that, have forced the cities into a budgetary practice that approximates the theoretical requirements much more nearly than does the practice in the states.[1] The state legislatures have imposed a sound system upon the cities but unfortunately there is no power which can impose it on the states themselves. Furthermore it is not likely that the activities of the state governments will develop so rapidly and extensively as have municipal activities and consequently the need of economical administration may never be felt. Nevertheless the development of the tendency toward the segregation of the sources of the state and local revenue,—a tendency which is giving the state the changeable and less certain sources—will require a much keener financial perception for the successful administration of the states' finances than has the relatively simple system of the past. This ought to bring the officer at the head of the finances of the state into more prominence and ought materially to enhance his influence and authority.[2]

[1] See *A Comparative Study of the Administration of City Finance in the United States*, by Fred. R. Clow, Ph. D., in Publications of the American Economic Associations, 3d series, vol. 2, no. 4.

[2] Something of this kind has already manifested itself in New York. The author was informed that the Comptroller's office had much to d—

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PART II

THE BUDGET AS A PROJECT OF LAW

I. *THE ORGANIZATION OF THE LEGISLATURE:*

In Part I an attempt was made to show that the rôle played by the executive in the preparation of the budget is relatively insignificant. Budgetary procedure in the states begins in reality with the legislature. It is obvious however that the legislature as a whole is too unwieldy a body efficiently to prepare the budget, and, as a matter of fact, this important task is everywhere delegated to a special committee. It is indeed characteristic of our entire legislative procedure that a large part of the preparation of laws is done by committees. An account of the development of the committee system would therefore be valuable, but here we may take into account only those things that are immediately relevant and the discussion must confine itself to the financial committees and their organization and methods. It is these financial committees which are in reality the finance ministers of the states.

II. *THE FINANCIAL COMMITTEES:*

(*A*) *The appointment of the committees* in each state is provided for by the rules of the legislatures. The method employed by the lower house usually differs from that employed in the senate. In the lower house the Speaker is given a relatively free rein in the appointment of members to committees. In the senate however, because the presiding officer is the lieutenant-governor, the committee assignments are arranged by the party leaders although in some states the president of the senate has nominally the appointing power. Where the president of the senate does not possess this power the committees are elected by the senate itself.

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In all cases full party-representation is provided for. It is to be expected, of course, that the Speaker in the lower house and the majority leader in the senate will arrange the committee assignments of the majority in such a way that on the whole, the majority representation on each committee will be as strong as possible. This is uniformly the case. It might also be supposed that in arranging the minority assignments those in power would do their best so to scatter the forces of the minority that, on the whole, the minority representation on each committee would be as weak as possible. But fortunately party advantage is never pushed to this extreme and the general custom is for the Speaker to take the minority leader's counsel in the committee appointments of the minority. In the senate also the minority leader is responsible for the committee assignments of his followers. In general then the organization of the committees in both the senate and the lower house is based upon considerations of party advantage; but as each party is desirous of making the best possible showing before the people, party advantage itself demands that ability and fitness be taken very largely into account in the selection of the members to serve on the various committees. In this particular then, the pressing of party advantage redounds in the long run, to the people's benefit.

(*B*) *The number and character of the financial committees* differ from state to state. The common practice is to have one committee in general charge of appropriations and another in charge of measures for raising revenue. In some states both functions are united in one committee.[1] In a few states this characterizes the senate committees only.[2] A few other states have joint committees of the

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lower house and the senate—one for appropriations and one for revenue.[1] Then there are as a rule other committees for special purposes or special kinds of measures such as the Committee on Excise in New York.

(*C*) *The names of these committees* also differ very much from state to state. The committees of the lower houses in charge of appropriations are variously known as committees on "Ways and Means," or on "Appropriations" or on "Finance." Committee on Appropriations is the most common designation. There is a much wider variation in the names of the committees in charge of the revenue measures. "Ways and Means" is the most common, "Revenue and Taxation" follows next in order but all the following names can be found: Ways and Means and Revenue; Assessment and Collection of Taxes; Retrenchment and Economy; Finance; Taxation; Assessment and Taxation; Revenue, Finance and Taxation; Taxation and Retrenchment; and Taxes, Ways and Means. In New Jersey the Committee on the Judiciary and in Kansas the Committee on State Affairs have charge of revenue measures in their respective states. In a great many of the states the names of the committees in the senate are the same as those in the lower house. Where both the revenue and the appropriation functions are united in one committee the following names may be found: Ways and Means; Finance; Appropriations; Taxation and Finance; and Finance, Ways and Means in the lower houses: and Finance, Taxation and Finance; Finance, Ways and Means in the senates. The names of the joint committees are as follows: (for appropriations) Joint Committee on Claims,[2] Joint Committee on Appropriation and Financial

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Affairs [1] and Joint Committee on Appropriations; [2] (for revenue measures), Joint Committee on Taxation,[1] and Joint Committee on Finance.[2]

(*D*) *The duties of these committees* are sometimes prescribed by the rules although in their fullness they are determined by custom. The committees must study the measures that are submitted to them and they have also the power to initiate legislation connected with their particular fields. Almost all the important fiscal legislation originates in the committees.

The committee that has general charge of appropriations uniformly originates the bill-making appropriations for the expenses of the government,—where it is customary to pass such a bill,—but almost every committee has a right to report a bill carrying an appropriation for some purpose that directly concerns the field of the committee's responsibility and individual members of the legislature may introduce appropriation bills for specific purposes. It is, however, the general practice in the states to refer such measures to the committee in charge of appropriations before final action is taken on the floor of the house. There are, however, some exceptions to the general rule. In Florida it is not always done. In Vermont bills not carrying appropriations for the support of the government are not regularly sent to the appropriation committee. In Arkansas there is a division of responsibility resembling somewhat the congressional plan. The Committee on Ways and Means reports general appropriations; to the Committee on Charitable Institutions are referred all bills carrying appropriations for charitable institutions; appropriation bills for the

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In the same way all revenue measures go, as a rule, to the regular revenue committee although the important revenue measures originate in the revenue committees themselves. When bills are introduced by individuals or committees other than the revenue committees the revenue provided by such measures is usually only an incidental consideration.

There is thus in the state legislatures some centralization in the control of the two great classes of fiscal legislation. This centralization is highest in the states where a single committee in either house has charge of both revenues and expenditures and is on a somewhat lower plane, where there are independent committees for such purposes. The whole history of the committee system shows however that the tendency is away from, rather than toward, centralization. It was only in 1905 that Vermont provided for a separate revenue committee while before that time one committee had charge of both appropriations and revenue measures.

III. *THE PREPARATION OF FISCAL LEGISLATION:*

(*A*) *The Period for which the Budget is provided:* In the great majority of states the legislative sessions are biennial. In Alabama they are quadrennial. In only six states are the sessions annual.[1] This means that in all but these six states the revenue system must remain undisturbed for two or four years as the case may be; only in the six states which have annual legislative sessions can there be an annual budget.[2] From a strictly financial

[1] Massachusetts, Rhode Island, New York, New Jersey, South Carolina and Georgia.

[2] The practice in Georgia is very irregular. Sometimes the budget

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point of view the general practice of having only biennial or quadrennial legislative sessions is one that is subject to some criticism in view of the fact that executive and administrative discretion is so narrowly restricted. It is usually considered difficult enough to forecast conditions for a year lying in the immediate future and this difficulty increases in geometrical progression as one goes farther and farther into the future. Consequently if careful financiering were required, it would be very difficult to prepare accurate estimates for the second year of the legislative biennium and practically impossible to do so for a third or a fourth year as would have to be done in Alabama.

There are, however, certain ameliorating circumstances which have been referred to before. In the first place the financial pressure in our states has never been really great; in the second place the activities of the average American state are relatively few and unchangeable, and in the third place the return from the property tax—which is the mainstay of state finance—is not subject to any considerable variation. These circumstances tend to weaken the financial considerations opposed to biennial sessions and such considerations are therefore easily counterbalanced by those in favor of restricted sessions.

The next point that naturally suggests itself is the relation of the preparation of the budget to the fiscal year. The accepted theory is that in order that the budget may be prepared with accuracy the fiscal year should begin as soon as possible after the close of the legislative session. The longer the period that intervenes between the preparation of the budget and the time it goes into effect, the greater is

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the likelihood that unforeseen exigencies will overturn the original estimates.

In forty-one states the legislatures meet early in January. In the other four states they meet at some other time.[1] In some states the legislature does not convene until after the opening of the fiscal year. In nine of the states whose legislatures meet in January, the fiscal year begins either January 1st or shortly thereafter so that in these states the opening of the legislative session and the beginning of the fiscal year are practically synchronous.[2] In eight states the opening of the fiscal year comes at an even earlier period than January 1st.[3] It is necessary to say, however, that in three of these states [4] there are practically independent appropriation years. In Ohio, instead of making appropriations for the fiscal years outright the appropriations are so made that the appropriation period takes in three-fourths of one fiscal year and one-fourth of the next. The appropriations are made in this way for two years so that in the year when the legislature meets, appropriations are available until one-fourth of the then-current fiscal year has elapsed. In Tennessee and Nebraska the appropriations are made simply for a specified period, the opening and closing dates of which have no regular relation to the opening and closing of the fiscal year.[5] These three states,

[1] Georgia in June, Louisiana in May, Florida in April, and Vermont in October.

[2] This is true in Delaware, Idaho, Maine, Missouri, Nevada, Rhode Island, South Carolina, Utah and Oregon.

[3] December 1st for Colorado, Massachusetts, Montana and Nebraska; November 16th for Ohio, and October 1st for Alabama, Tennessee and West Virginia.

[4] Ohio, Nebraska and Tennessee.

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then, ought in reality to be classed with those which will be referred to subsequently, but in all the others heretofore mentioned—since in them the budget is not prepared until after the opening of the first fiscal year of the biennium for which it is to provide—the conditions ought to be gauged with relative accuracy.

In all the other states whose legislatures meet in January the opening of the fiscal year comes after the legislature has convened. In over half of these states the legislative session is restricted variously to from forty to ninety days.

TABLE I.

States.	Session of Legislature Begins.	Session Restricted To.	Date of Fiscal Year.	Suggested date of Fiscal Year.
Arkansas	January.	60 days. Pay for only	April 1st.	
California	"	60 days.	July 1st.	April 1st.
Connecticut	"	....	Oct. 1st.	July 1st.
Illinois	"	....	Oct. 1st.	July 1st.
Indiana	"	61 days.	Nov. 1st.	April 1st.
Iowa	"	.... Pay for only	July 1st.	
Kansas	"	50 days.	July 1st.	March 1st.
Kentucky	"	60 days.	July 1st.	April 1st.
Maryland	"	90 days.	Oct. 1st.	May 1st.
Michigan	"	....	July 1st.	
Minnesota	"	90 days.	Aug. 1st.	May 1st.
Mississippi	"	....	Oct. 1st.	July 1st.
New Hampshire	"	....	June 1st.	
New Jersey	"	....	Nov. 1st.	July 1st.
New York	"	....	Oct. 1st.	July 1st.
North Carolina	"	60 days.	Dec. 1st.	April 1st.
North Dakota	"	60 days.	July 1st.	April 1st.
Pennsylvania	"	....	June 1st.	
South Dakota	"	60 days.	July 1st.	April 1st.
Texas	"	....	Sept. 1st.	July 1st.
Virginia	"	60 days.	Mar. 1st.	
Washington	"	60 days.	April 1st.	
Wisconsin	"	....	July 1st.	
Wyoming	"	40 days.	Mar. 31st.	

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ginia, Washington and Wyoming,—states where the legislative session is restricted—the date of the fiscal year is—according to the rule referred to above—well placed. In the other states where also the legislative session is restricted, the rule would seem to demand that the opening of the fiscal year be advanced somewhat,—approximately to the dates suggested in the table. In the states which put no restrictions upon the sessions of their legislatures it becomes necessary to take into account the actual practice of the legislatures in regard to the time of final adjournment. It may be said that although the sessions run occasionally into June they practically never run into July. June 1st or July 1st would therefore suggest itself as the best date for the opening of the fiscal year. A glance at the table will show that five of the states have adopted one or the other of these dates. The others have later dates—as is indicated in the table—and these therefore might with advantage shift the opening of their fiscal years to the times suggested. In the four states whose legislatures meet at some time other than January, it is shown in Table II that the legislative session is restricted in three of them. In one of these

TABLE II.

States.	Sesion Begins.	Session Restricted.	Fiscal Year.	Suggested Fiscal Year.
Florida	April.	60 days.	July 1st.	July 1st.
Georgia[1]	June.	50 days.	Jan. 1st.	Aug. 1st.
Louisiana.....	May.	60 days.	July 1st.	July 1st.
Vermont	October.	....	July 1st.	Jan. 1st.

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states—Georgia—it might seem advisable to make a change. January 1st is suggested for Vermont although it was only recently that Vermont changed the opening of her fiscal year from December 1st to July 1st.

It must, however, be remembered that in four of the states [1] to which reference has been made above, comparatively few appropriations are re-enacted each session. In these states, with practically permanent appropriations, it matters very little when the opening or the closing of the fiscal year takes place. Furthermore the considerations that were advanced as modifying the criticism, from a financial point of view, of biennial and quadrennial legislative sessions, apply here as well, although to the extent that the criticism is a just one concerning the sessions, it becomes even weightier when applied to the fiscal year. That is to say, if it is just to criticise the practice of biennial sessions because such a practice makes accurate estimates for the second year exceedingly difficult, then there is even more justification for criticising the practice of having the opening of the fiscal year begin some five or six months after the close of the legislative session because such a practice simply increases the difficulty of rendering accurate estimates.

(*B*) *How the Committees determine the Amounts of the Appropriations:*

In preparing the appropriation bills the committee concerned has full power. It may or may not endeavor seriously to base its action on the recommendations of the finance officer. The various officers of the state and those wanting either increased or renewed appropriations write directly to the committee and endeavor in this way to press their requests; or they appear in person and by personal suasion attempt to bring about favorable

[1] New Hampshire, North Carolina, North Dakota, and Wisconsin.

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action. Sometimes also members of the legislative body—not themselves on the committee but possessing some influence—are appealed to in order that they may bring their influence to bear in favor of the appellant. On the other hand, only a few of the finance officers who prepare the estimates aver that they themselves appear before the committee to defend and urge the acceptance of the estimates that they have made. Considerations of financial expediency are thus apt to be under-emphasized.

Nevertheless, the committee in preparing the appropriation bills is dependent very largely on the auditor's or comptroller's office,—as the case may be,—and must as a rule keep in pretty close communication with it. In considering the amount to be allowed to any officer or department the committee must know how much such officer or department was given before and in just what way such allowance was spent. Then too the committee must have in mind the probable amount of revenue that can be wisely raised. This requires a frequent reference to the records in the auditor's or comptroller's office and consultation with such official himself. Thus in an indirect way the finance officer may after all, exert some influence in the allotment of appropriations but it is an influence that depends upon the individual himself and the confidence he may inspire rather than upon any constitutional prerogative which he enjoys.

After the various parties interested have been heard the committee brings in its recommendations in the form of a bill that is reported as any other bill would be, and the measure is then ready for the consideration of the legislature. Its career in the legislature will be dealt with in the

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cedure in formulating them is much the same as in the case of appropriation bills. The committee responsible must study carefully the workings of the revenue laws and this necessitates a close study of the auditor's or comptroller's report as well as of the reports of other officers or boards who are charged in any way with the administration of such laws. The amount of revenue required must be carefully estimated in order that adequate means of raising it may be supplied. Where one committee has charge of both appropriations and revenue, the task here referred to is not a difficult one, but where there is a separate appropriation committee or more than one, the difficulty increases materially. Such consultation as is had between the appropriation and the revenue committees is only informal and amounts usually to a personal consultation between the respective chairmen. A carefully equilibrated budget is therefore practically out of the question. The committee after settling on the amount of revenue that will be necessary brings in a bill providing for the amount determined.

In considering new legislation whether introduced by individuals and referred to the committee or initiated by the committee itself,—the committee gives all parties interested an opportunity to be heard. A public hearing on the bill is usually announced and those interested one way or another attend the hearing and present their arguments in favor of or against the bill, as the case may be. As a rule it is in the committee that the fate of a bill is determined.

But once again it must be remembered that there is not in the states at each legislative session the laborious and painstaking discussion concerning the revenue that charac-

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mittees aim to do is to provide enough revenue. They do not consider each year a nice adjustment of rates in order that a certain and exact amount of revenue may be raised. Moreover, as has been indicated above, in a large proportion of the states the property tax is at the basis of the tax system and is also the elastic element in it, and the tax rate on property is in most cases either fixed by permanent statute or determined by some general rule that allows the rate to vary with the amount of the appropriations. This obviates, to a large degree, the necessity of regular tax acts which are usually considered as making up the revenue side of the budget.

(*D*) *Efficiency of the Committee System:*

The criticisms that are to be brought against the committee system from the point of view of the preparation of the budget are, in the main, two.

In the first place the committees cannot estimate accurately the needs. They meet in most cases only once in two years. Their personnel changes considerably from session to session. As a rule the members have had no administrative experience and they are therefore quite unable to judge of the validity of the arguments of the officers, etc. appearing before them. In view of these divers considerations it may be affirmed with confidence that the amounts that they decide upon are not likely to be as accurate as estimates carefully worked out by the responsible finance officers. That the committee's estimates are not accurate is proved by experience.

In the second place divided responsibility in budget matters renders a scientifically equilibrated budget practically

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(1) *The Scheme of Appropriations:*

Equilibrium and balance in the budget require that the full scheme of appropriations and the proposed plan for raising the necessary revenue be shown in juxtaposition before the budget is voted. There are, however, certain considerations which tend to lessen the importance of this rule and certain others which emphasize the tendency to disregard it when the attempt is made to apply it to the financial practices in the states.

In general it may be said that the scheme of appropriations, if carefully and sincerely drawn up, will embrace the expenditures that a wise policy makes necessary. Any material change in such a scheme would be therefore presumptively unwise, and so, as a rule, it is the revenue system which must be adapted to the scheme of appropriations rather than the reverse. This is the recognized practice and is responsible for the distinction between public and private finance that is usually expressed in the phrase, — more epigrammatic than accurate, — that "the state regulates its income by its expenditure while the individual regulates his expenditure by his income." But the revenue system is relatively a permanent one and the questions that usually come up relate only to the rates of taxation on certain permanent bases. A sound revenue system has certain elastic elements that permit a ready adaptation to changed requirements, but when the limits of the elasticity of such a system are reached it becomes obviously necessary to make changes in the system itself. This is another way of saying that new taxes are added to the revenue system only when expenditures begin regularly to outrun the income which at its maximum efficiency the system will yield. Consequently it is only when additional sources of revenue must be resorted to or when certain reforms in the system are planned that that part of the budget

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relating to revenue has to be very scrupulously studied by the legislature. The part relating to appropriations is thus normally the one that engages most attention.

It has been said before that in the American states the property tax is, as a rule, the backbone of the revenue system. In half of the states also the rate of the tax on property is either specified by general law or is determined according to general principles that are so specified. Where the state depends on other sources of revenue, as in New York, the rates of taxation are not subject to readjustment at each legislative session but are relatively fixed. In only a minority of the states, therefore, is the question of the revenue side of the budget one that has to be regularly considered. But even in such a minority of the states—dependent as they are upon the general property tax for the major portion of their revenue—it is a relatively simple thing for a legislative committee to determine what the necessary rate must be. The value of property increases slowly rather than decreases and is not on the whole subject to serious fluctuations and so the state is assured of most of its income irrespective of possible developments in the commercial world. This stability and certainty of the property tax renders the consideration of the revenue side of the budget in the states of little practical importance and therefore the rule that requires the presentation of the revenue plan as well as the scheme of appropriations in the projected budget, applies with only diminished force.

As a matter of fact it is not found anywhere in the states that the rule is observed. In only a few of the states does one committee have charge of both appropriations and revenue and only in such states would it be possible to have a comprehensive budget presented. Where one or more committees report appropriations and an entirely different committee has charge of revenue no single all-comprehen-

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sive measure is possible. But even in those states where one committee does have the oversight of both appropriations and revenue it is not the practice to report a single measure embracing a complete budget.[1] In most cases the committees could not report such a measure if they desired to do so. They report by bill and in a majority of the states there is some constitutional provision which would prevent the combining of appropriation and revenue measures in one bill.[2] In these cases the constitutions themselves preclude the possibility of the application of the rule. In view then of the practice of the various states, as enforced by constitutional provision or long custom, it becomes necessary to consider the two parts of the budget independently. Attention will therefore be directed first to the appropriation measures and secondly to the revenue measures.

(2) *Appropriation Measures:*

(*A*) *Constitutional Restrictions:* In almost half of the states of the Union there are constitutional restrictions which militate against the presentation of a complete and well balanced scheme of appropriations. Twelve states have restrictions definitely limiting the scope of the general appropriation bill. Six of these[3] have provisions that are almost exactly similar. In these states the general appropriation bill is limited to ordinary expenses of the executive, legislative and judicial departments of the government, interest on the public debt and for public schools.

[1] The South Carolina legislature passes at each session an act entitled "An Act to raise supplies and make appropriations for the fiscal years," etc., but as a matter of fact this is only a revenue bill. There is a separate bill for appropriations.

[2] See preceding chapter — "Restrictions concerning legislative pro-

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The Arkansas constitution excludes even the appropriations for school purposes and for public debt. In Georgia there is a wise provision which enables such appropriations as are fixed by previous laws to be included in the general bill, the provisions regulating which are otherwise like those in the six states mentioned above. The provisions of the South Dakota constitution are also similar to those of the six states referred to above except that they permit the general bill to include also the appropriations for the state institutions. In California the general bill is limited to the "expenses of the government," salaries of the state officers and appropriations for the state institutions. In Louisiana the bill may include only appropriations for the public schools, expenses of the government and interest on the public debt. Moreover in all of the states above referred to there is found the added provision that all other appropriations "shall be by separate bill each embracing but one subject."

In four states[1] bills making appropriations for salaries of the officers of the government and members of the legislature can contain no provisions on any other subject The Oregon constitution has a similar provision except that it allows "other current expenses of the government" to be included in such a bill.

The objects of restrictions of this kind have been already referred to in the preceding chapter. A bill for expenses of the state government is such a "strong bill"—(i. e., so sure of being passed)—that it becomes always a favorite agency for carrying through certain "riders," as they are facetiously called—which could not possibly go through the

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terests to serve and who support one another's projects and sometimes by the majority leaders themselves as a sop to certain malcontents whose votes are needed for some important party measure. In this way the public money has often been foolishly expended. Very early this danger was appreciated and that is why so many of the states have so strictly limited the scope of the general appropriation bills.

In some states also the scope of the appropriation bills is limited by the rules of the legislature. Thus Michigan and Minnesota have a legislative "joint rule" which provides that bills making appropriations for state officers shall be limited to that purpose exclusively. Whether such restriction is imposed by the legislature upon itself or by the constitution of the state, the object is the same.

Consequently in the states where these restrictions—however imposed—obtain, a complete scheme of appropriations—always excluding of course those necessarily incidental—is possible only to the extent that such restrictions embrace all the activities of the state's government. Whether they do as a matter of fact depends very largely upon the interpretation put upon them. A broad interpretation would from the financial point of view be desirable.[1]

[1] It may occur to the reader that what has been said concerning the "form" of the budget ought in reality to come under the chapter on "voting." But it has been assumed all along that a complete scheme of the appropriations ought to be presented to the legislature first of all, irrespective of the various combinations that might be made for the mere purpose of voting. The trouble is that our legislative committees report only by bill, and although it is thoroughly sound to vote the appropriations in small groups, it is not sound to introduce such appropriations piecemeal, without in some way showing the relations of each to a whole scheme. A just balance between the parts cannot be obtained in this way. The com-

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There are however twenty-seven states where practically no restriction is placed upon this particular phase of financial practice and in these, at least, it would be possible, even without changing very much the practice of the committees reporting by bill, to have a comprehensive scheme of appropriations reported.

(*B*) *General Appropriation Bills:* All but eleven states [1] have what approximates a general appropriation bill. They vary considerably in scope and general content. It would be manifestly impracticable to describe the bills separately and therefore only general statements will be made. It may be said that in less than a dozen states do the general appropriation bills, as reported by the committee, embrace all the regular appropriations.[2] The appropriations not contained in the general bill are provided for in separate bills of which there are usually a considerable number. This militates against a proper balance in the appropriations. As a rule also, the general bills are not broad enough in scope and in almost all cases they are not carefully worked out and have to be supplemented with additional appropriations. A few examples will illustrate some of the shortcomings referred to. In Alabama in 1903 after the general appropriation bill was passed a number of other bills really incidental to or connected with matters in the

in Rule 27 of the Assembly of California which says "The Committee on Ways and Means shall from time to time, at least once in two weeks, report to the House the exact condition of legislation involving appropriations, and the aggregate amount of all the proposed appropriations pending."

[1] Connecticut, Illinois, Kansas, Kentucky, Massachusetts, Montana, Michigan, New Hampshire, North Carolina, North Dakota and Wisconsin.

[2] The following states have the most satisfactory general bills: Indiana, Maryland, Minnesota, South Carolina, Tennessee, Texas, Utah, Virginia and Washington.

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general bill were introduced and passed and the general bill itself was amended later in the session. New York has three general appropriation bills,—all related to each other, — the "General Appropriation Bill," the "Annual Supply Bill" and the "Annual Supply Bill—Supplementary." In the first bill the theory is to include only the absolutely necessary expenses. The Supply Bill is supposed to make up the deficiencies of the previous year, increases that are allowed and such unforeseen expenditures as may have become necessary since the passage of the "general bill." The "Supply Bill—Supplementary" is supposed to gather up all the loose ends, so to speak,—in other words, to take care of anything that has been overlooked. It comes at the very end of the session. In 1905 the legislature of Maine had to pass a supplementary appropriation bill a little over a month after the first bill providing for the expenses of the government was passed.

(*C*) *Separate Large Bills:* In six states the appropriations are divided among a few large bills or among many smaller ones. In Illinois, Kansas and Montana the regular appropriations are divided among a few large bills although in Illinois there are more of these than in the other two states. In Massachusetts and Michigan there are a large number of separate bills. In Connecticut there are three different kinds of bills—"specific appropriations" which, as their name implies, are for the expenses of specified officers, etc.; "annual appropriations" which are practically permanent; and a bill for "sundry purposes" which provides the appropriations for all such expenditures as are authorized by the general statutes. In none of these states, then, is the requirement that the scheme of appropriations be presented as a well-balanced and comprehensive whole even approximately met.

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(*D*) *Appropriations by General Statute:* Five states[1] have most appropriations provided for by general statutes. These states cannot be said to have any budget at all. Such appropriation measures as are reported are appropriations for special purposes or amendments to appropriations permanently provided for. From the point of view of budgetary balance no particular criticism can be urged against the practice of permanent appropriations. The practice in the long run may tend even to promote a just balance between the regular expenditures of the state.

(*E*) *Classification and Itemization:* Another question which seems to demand some consideration at this point is that of the classification and the itemization of the contents of the appropriation bills. Professor Adams points out[2] that there is a conflict in this particular between the administrative or the financial and the constitutional interests involved. His view is that although the constitutional interest demands particularization and itemization, the financial interest demands a few general classifications that allow the administrative department a wider discretion when once the measure becomes law. There is however some question whether administrative efficiency itself, in the states, might not be furthered by more complete itemization —especially in those states in which the governor is given the power to veto items in appropriation bills. This opinion is based on the consideration that financial responsibility in the states is a legislative rather than an administrative responsibility. Where the officer at the head of the finances of a state is responsible for the state's fiscal policy, as is the case with the Chancellor of the Exchequer in England, he watches closely how the money is spent and is in

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a position to rebuke a misuse of such discretion as may be allowed to any officer of the government in the expenditure of funds. But in our states where the responsibility rests upon a legislative committee, which meets,—in the great majority of cases,—once in two years and which has to get its work done within a prescribed number of days, the same careful oversight cannot be maintained. Under such circumstances a wide discretion in the expenditure of public funds might result in evils and abuses that could not be readily corrected. The abuse of "contingent funds" in both the national and the state governments would seem to be a case in point.[1] Furthermore in those states in which the governor may veto items in appropriation bills, it is apparent that the more detailed the appropriations are the more effectively can he exercise an oversight and control over his subordinates. Further reference will however be made to this in a later chapter.

As a matter of fact there can be found various kinds of classifications and all degrees of itemization. In general the classification follows the great divisions of government with the various subdivisions that come naturally under each; but in a few states, as in Maine for example, no attempt at classification is made.

In most of the states provision has to be made for two years and it is interesting to note in this connection what methods are employed in distinguishing the allotments for the two years. In some states[2] the amounts alloted for each purpose are shown in two columns, one column for

[1] The South Carolina constitution absolutely forbids appropriations for contingencies. So far as the national government is concerned, it happens that only recently (1906) there was a great outburst against

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the first year and one for the second. In other states [1] there are practically two bills, one for each fiscal year. In Florida the general appropriation bill is divided into four sections. The first section provides the appropriations for six months of the fiscal year that is current when the bill goes into effect, the second section makes the appropriations for a full year immediately following, while the third section makes the appropriations for the six months which follow such a year. Then in some states [2] the bill as reported simply names a certain amount which must suffice for the two years. In other states [3] the apportionments for the two years are shown in separate sections. In Minnesota the bill provides that the appropriations stated are available for each of the two fiscal years except in cases specified. In Virginia there are practically two complete bills—one for each fiscal year—although they are reported as sections of the same bill.

In the matter of itemization also the practice varies greatly. In New Hampshire where permanent appropriations are in vogue most departments are allowed to spend a certain amount per year—with no particular specification of purpose. Where permanent appropriations of this kind are the rule the provisions must of necessity be general. In South Carolina—at the other extreme—rigid itemization is practiced. In New York the tendency is toward further itemization—according to Mr. Jas. C. Rogers, for several years the Chairman of the Assembly Committee on Ways and Means—and avowedly with the purpose of giving the Governor a larger control over appropriations.

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mention is regularity in the form of the appropriation bills. This may be passed over hastily. As a rule it may be said that the requirement of regularity in form is met more or less completely. From session to session there seems to be ordinarily little change although when longer periods are taken into account the change may be considerable. The changes are not however arbitrary and confusing but are as a rule the result of changed conditions which are in turn the result of new legislation.

(3) *Form of the Revenue Bills:*

Concerning the revenue side of the budget little need be said in addition to what has been said already. In half of the states (23) the revenue is provided according to general law which does not have to be re-enacted each year. In all such states the rate of the tax is fixed or a general rule of calculating the rate according to the authorized appropriations is laid down.

The other states do however regularly enact revenue measures which may be considered the revenue side of the budget and the point to be discussed is the form in which such measures are presented. In four states[1] the tax measure is brought in simply as a bill levying certain specified rates on property. The total rate alone is given in each case. In New York the only regular tax act is a similar measure levying the tax for the canal debt sinking fund.[2] In four other states[3] the tax bill is brought in as an amendment to the general statutes. In these cases also the rate is prescribed. In nine states[4] the practice is

[1] Alabama, Florida, Mississippi, and Montana.

[2] By constitutional amendment this charge is now met by the regular funds in the treasury. There is thus no longer in New York a direct tax on property for state purposes.

[3] California, Kentucky, Louisiana, and Maryland.

[4] Idaho, Illinois, Iowa, Kansas, Maine, Massachusetts, Minnesota, New Hampshire and Utah.

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to report bills that express in dollars and cents the amounts that are to be levied, and some state officer or board afterwards calculates what the rate shall be. In two of the New England states [1] the bill specifies the amount that each town is to raise and it is left to the town authorities subsequently to determine the necessary rate. In New Hampshire the bill orders a lump sum levy and authorizes the treasurer to draw on the various towns according to the apportionment that is the standard at the time. The apportionment is changed from time to time. In Illinois instead of a lump sum levy, the practice is to report a measure which enumerates the several purposes for which taxes are to be levied and the amount required for each of such purposes is specified. In Georgia, however, practically the whole revenue system is re-enacted each year.

Three of the states have certain peculiar customs which deserve special mention. In Florida the bill as reported by the committee fixes a certain rate of taxation but it also contains a clause which authorizes the governor to reduce the rate if he finds that the aggregate assessment of either or both of the fiscal years of the biennium will permit it. Then the custom also prevails in Florida to report a special tax bill for pensions. In Michigan the custom is to include in most of the appropriation bills a provision which authorizes the auditor to include in the taxes to be levied a tax that will suffice to produce the amount so appropriated. That is to say, in most appropriation bills the ways and means for raising the money authorized to be expended are provided in the bills themselves. For the general and variable expenses of the state government however there is reported a special bill which levies a specified rate and which is known as the General Budget Bill. In South

[1] Maine and Massachusetts.

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Carolina the bill as reported provides not only for the various state levies but also all the authorized county levies. The counties are enumerated in alphabetical order and under each county the rates for all the various purposes—state and county—are specified.

Throughout this chapter the attempt has been made to give a general view of the methods of preparing the budget in the states. It is hoped that the following points were made clear in Part I: that the executive and administrative officers have practically no control of financial matters but that the legislature alone is responsible; and that this is due largely to our form of government but also to the attitude of the legislature itself as well as to the comparative freedom from financial stress. In Part II the object was to show in a general way how the budget as a project of law is really prepared. This necessitated some account of the financial committees in the states because these committees are in reality the finance ministers. Then owing to the practice in vogue in the legislatures it became necessary to take up the two sides of the budget separately and to discuss its preparation from the point of view of appropriations and of revenue. The appropriation measures were considered most important because of certain general considerations and because of the tax system that obtains in most of the states. Some criticisms were ventured from time to time as the various questions were discussed. These criticisms may be summed up in the statement that no attempt is made to prepare a well balanced, equilibrated budget and that this gives rise to carelessness and wastefulness.

In the next chapter an attempt will be made to follow the

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CHAPTER III

THE VOTING OF THE BUDGET

I. *THE ORGANIZATION OF THE LEGISLATURE:*

(*A*) *Comparison of American and Foreign Conditions:* Both M. Stourm and Professor Adams point out that in all constitutional governments the first step in the voting of the budget is the examination of the project by a commission or a committee of the legislature. As both authors show very clearly how this process is carried out abroad, it would be superfluous to give here any account of the foreign methods. We shall therefore proceed at once to indicate what seems to be the essential difference between them and the methods in vogue in the United States—and more particularly in the several states.

In parliamentary governments the budget goes through two stages. As reported by the finance minister it represents a scheme that has been carefully prepared by the "government." The government has itself considered the needs of the various administrative departments, etc. and in preparing its scheme has had in mind the maximum attainable efficiency of each department. In the first instance the scheme of estimates is thus based upon considerations of pure administrative efficiency. But in the second instance the government has had in mind also the possibilities of the financial system and has perhaps had to modify estimates based upon considerations of administrative efficiency in order to harmonize them with the possi-

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bilities of the financial system as such possibilities may be interpreted. Such then, is the first stage through which the budget goes,—the stage in which emphasis tends to be laid on administrative efficiency and fiscal expediency.

The second stage of the process is the examination by a separate legislative commission or committee. Such a commission ought to be,—and generally is,—one that represents a diversity of interests and political views. In England the ablest opposition leaders are always present at the meetings of the Committees of Supply and on Ways and Means; and in France, although the examining commission is chosen by lot, that very fact would tend to insure a representative from every important group in the Chamber. In the examination by this commission the point of view that becomes most prominent is a political one. Administrative efficiency and fiscal expediency are not and cannot be overlooked but they are interpreted in the light of political considerations by the various groups represented. In other words, in the second stage of the process, the emphasis is laid on political expediency.

In our states the budget as a report differs very materially from the budget in its initial stage as it is reported by the finance minister in England, for example. This was shown to be especially true of that part of the budget as a report which contained the estimates of receipts and expenditures for the ensuing fiscal period. In England the budget as reported by the Chancellor of the Exchequer is the actual basis of the budget that is ultimately voted by Parliament but in the United States the budget is made entirely anew by the committees. The revised budget, whether reported as a single measure by a single committee or as a series of separate measures by single or separate com-

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does the budget as originally reported by the finance officer in our American states.

The first stage of the process through which it was stated that the budget goes in England is thus, for all practical purposes, wanting in our states. The legislative committee essays not only to correlate administrative efficiency and fiscal expediency with political expediency—which is its logical function—but it determines in the first instance what the demands of administrative efficiency and fiscal expediency may be and harmonizes these two in such way as it sees fit. As a matter of fact under this system the questions of administrative efficiency and financial expediency are forced to remain in the background while the political considerations are always those that are most prominent. In other words the first stage of the process through which the budget goes before it is actually legalized tends, in our states, to be sacrificed for the benefit of the second stage.

There is however a practice in some of the states which would seem to suggest an analogy to the English method. In about half of the states it is found that before a bill may be acted upon by the house it must be considered in a committee of the whole. In England, it will be remembered, the House resolves itself into a committee of the whole when studying the budget, the Committee on Supply when considering appropriations and the Committee on Ways and Means when studying the revenue side of the budget. Although in England these committees are technically committees of the whole, as a matter of fact only the leaders of the various parties and those especially qualified to take part in the discussion of fiscal mat-

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the house apply with slight modification to the committee of the whole. Debate is usually unlimited in the committee sessions, no stenographic record is kept and the ayes and noes cannot be called for. There is one point, however, which alone proves fatal to an attempt to establish the analogy referred to. The quorum for the committee session is the same as the quorum for the regular house sessions; this prevents any sifting of the abler men and attacks the analogy at its vital point. The ex-examination of the budget in the committees of the whole in the states is perhaps freer and amendments to it can be more easily secured than is the case when the house is organized in its usual capacity, but there is not that peculiarly careful examination which characterizes the English practice.

In the other states, where the rules do not require that measures be examined in committee of the whole, all bills are considered by the whole house under the regular rules.

(*B*) *Examination of the Budget:* The actual examination of the budget on the floor of the houses is not a long process. Appropriation and revenue bills are always given the right of way either by rule or by consent. This is necessary because the expenses of the state must in the first instance be provided for, while in the second place the funds with which to meet them have to be supplied. Since nothing is more important than this all other legislation must give way to it. In Pennsylvania for instance we find that Joint Rule No. 6 provides that when the general appropriation bill is reported in either house, it has priority over all other business until disposed of. Whether such preference is assured by rule or not, it is, as a matter of fact, everywhere accorded these measures.

A very general requirement in the states—found either

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read three times. In some cases the reading must be on three different days although in others the first and the second reading may be on the same day. In almost every case however a sufficient majority may on the floor of either house suspend the rule. The first reading is for information only. The second is in most cases a reading of the title only. The third reading must be in full and is supposed to be important.

As a matter of fact very little attention is paid to the reading of the bills. The bills introduced are always printed and copies of them are placed in ample time on the desks of the legislators and therefore there is no need of listening to the clerk as with high-pitched voice and suspicious rapidity he performs the task of reading the bills. In some cases one can hear only the enacting clause followed by an outburst of unintelligible syllables when bang! goes the presiding officer's gavel and the clerk is ordered to proceed to the next bill or to the roll-call as the case may be. There is a rush and a go about the procedure in the legislatures that quite takes away the breath of the uninitiated onlooker.[1]

[1] As an illustration of the speed with which appropriation measures are sent through the legislature there is given here an account of the passage of the Miscellaneous Appropriation Bill in Kansas in 1901. It was introduced March 1st by the Chairman of the Committee on Ways and Means, after he had asked for the unanimous consent of the house. On motion of the chairman of the committee the rules were suspended and the bill was placed immediately on second reading. The bill was then read a second time. Immediately the committee chairman asked unanimous consent to have the rules again suspended, to have an emergency declared and that the bill be *considered* engrossed and placed on the Calendar under the heading of "Third Reading of Bills" subject to amendment and debate and that a sufficient number of copies of the bill be printed for the use of the

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Amendments:

Whether the financial measures can be amended or not depends at any one time upon the strength of the majority and the stage to which the committee system has developed. Where the majority is strong and the power of the committees is great it is practically impossible, when party discipline is maintained, to make an amendment that is unsatisfactory to the party leaders of the majority. Party discipline is not so rigid in the states as it is in Congress and the committee system is not so fully developed [1] so that

man of the Senate committee moved that the rules be suspended and that the bill be read the first time. The motion prevailed. After the reading the chairman moved that the rules be again suspended, an emergency declared and the bill be read a second time. This motion also prevailed. The bill was read and referred to the Ways and Means committee. Later in the day the chairman asked for unanimous consent to report the bill. Consent was given and the bill was reported favorably but with a number of amendments. The report of the committee was adopted, the bill was read a third time and passed. Still on the same day the bill as amended was reported back to the house and the chairman of the House Committee on Ways and Means moved that the House non-concur in the Senate amendments and that a conference committee be appointed. The motion prevailed and three conferees were appointed on the part of the House. On the same day the Senate appointed two conferees. That same day the conference committee reported to the House and to the Senate and the report was adopted without amendment. In other words it took only two days to introduce an important appropriation bill, to have it amended on the floor of the House and then passed; to have it sent to the Senate, referred to a committee, reported by the committee with amendments and passed; to have it sent back to the House and then to a conference committee; to have it reported by the conference committee to both houses and finally to have the report of the committee adopted by each house before adjournment. How much examination of such a measure could have been given on the floor of either house?

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on the whole it may be said that amending the finance bills is not such a difficult process in the states as it is in Congress.

The technical right to offer amendments is of course always provided in some form or other. When the bills are considered in committee of the whole amendments may be freely offered. If the amendments are adopted by the committee the fact is reported by the chairman when the committee rises to report to the house. Usually also the bills so reported are again subject to amendment on the floor of the house after the committee rises although there are some exceptions. In California for instance Assembly Rule 10 provides that appropriations can be increased only in committee of the whole. Where the bills are not considered in the committee of the whole the rules prescribe how amendments are to be submitted. The differences in the practice from state to state in this particular are immaterial. Suffice it to say that the privilege of offering amendments is everywhere guaranteed to each individual legislator although other considerations that are not technical in character determine whether the amendment can in reality be offered and whether it will ultimately be accepted or rejected.

In actual practice there is considerable variation from state to state. In the states where the measures are considered in the committee of the whole the journals disclose the fact that amendments, to appropriation bills at least, are freely adopted. That amendments are made in the committee of the whole that are sometimes repugnant to the committee which originally drew up the bill is shown, for

wright Local Option bill was taken out of the hands of the As-

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instance, by the amendment of the General Appropriation Bill in Indiana in 1903. The committee of the whole had made several amendments to the bill as reported by the Committee on Ways and Means; and when the committee of the whole arose to report, the Ways and Means chairman attempted to have three of the amendments stricken out. In only one case however was he successful, the other two amendments being allowed to stand. In the states where there is no examination of the bills by a committee of the whole the process of amendment is naturally more difficult. The approval of the committee reporting the bill is not always necessary before an amendment can really be made, although the whole tendency is toward strengthening the committees' power. Factional differences within the majority are the most fruitful causes of the downfall of the committees' power. Thus in the New York Senate some years ago a faction of the republicans united with the democrats to cut down the appropriation for the Superintendent of Elections in the metropolitan district.[1] As a rule however few amendments to appropriation bills—and none to the regular revenue or tax bill—are made by individual members on the floor of either house because the committees in their hearings give every interest a chance to be heard. The pros and contras are more or less carefully considered in committee and the general bills are passed in practically the same form that they are reported.

The Vote:

The actual roll-call is on the bill in its entirety. When all the regular appropriations are provided in one large gen-

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one that consumes much time. The practice does, however, prevent the legislature from voting on any particular part of the state's policy. On the other hand, where the regular appropriations are voted in a number of separate bills this particular inconvenience may be overcome but the element of balance is correspondingly jeopardized. In Ohio five senators and ten representatives may demand a vote on any item in an appropriation bill. This would seem to be a fair and logical compromise. Essentially, each item of an appropriation bill constitutes a separate enactment and the legislature ought to have a right to single out any particular item if it so chooses. It might be argued that this could be done by amendment in the regular way, but as a matter of fact a strong "house machine" might easily prevent an amendment for which a majority in the house would vote if an opportunity for voting were afforded. The Ohio rule permits the concentration of the legislature's attention on any part of an appropriation bill and helps to prevent the tacking-on of the baneful "riders." When the roll is called the legislators respond "aye" or "no" but in voting on the general appropriation bills the ayes always have it.

(*C*) *The Bill in the Senate:*

We assume here that the bill has originated in the lower house. As a matter of fact in more than a half-dozen of the states the regular appropriation bills originate in the senate.[1] This has however, so little significance from any point of view that no attempt will be made to distinguish between the states where the place of origin is the lower house and those where it is the senate. The procedure is

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leaving the house goes to the senate. Here it is immediately referred to the senate committee on appropriations—or whatever be its particular name in any state—and the whole process of examination is gone through with again. The senate committee receives communications, appoints hearings and conducts investigations. Of course it always finds something to amend and never hesitates to make an amendment wherever it seems advisable. Sometimes indeed it strikes out all of the house bill except the enacting clause and substitutes a new bill of its own. This is quite the fashion in New York. In only a few of the states are the amendments made by the senate in one general direction.[1] The various services provided for are studied according to their own merits and therefore, as a rule, amendments are made in the senate committees which increase some appropriations and cut down others. When finally in shape the bill is reported to the senate and the procedure is thenceforward practically the same as has already been described for the house.

The bill, when passed by the senate, has to go back once more to the house in order that the house may express itself as to the amendments that the senate has made. In a great majority of cases—although not with absolute regularity, — the house's decision is adverse, — that is to say it votes not to concur in the senate amendments and the bill must go to a conference committee.

(*D*) *Conference Committee:* The house and the senate are both represented on the conference committee. A few of the leaders of the house and senate committees on appro-

[1] The senate in California usually decreases the house appropriations—according to the Comptroller. The same is true of Delaware, Florida, Idaho and Rhode Island. The opposite is true in Indiana, Missouri, Maine and South Carolina.

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priations — or whatever other name the committees may bear—are designated by the presiding officer of each house respectively. The committee then meets and endeavors to mark out a compromise measure. The conference-committee meetings are always rather strenuous because each side tries to hold out for its own contentions; but in the end, by mutual concessions, agreement is finally reached. The bill is then reported either to both houses at the same time or to one or the other as the case may be. The bill so reported almost always becomes the law, for amendments to the conference committee's report are everywhere frowned upon.[1]

It has been seen that the senates in the American states, unlike the House of Lords in England, take a very active part in budgetary legislation. The budget undergoes an examination that is rather different from that which is accorded the English budget. It is an examination which may tend to jeopardize "balance" in the budget but the second and independent examination on the part of the senate does usually insure one that is thorough.

The American process involves, however, a great waste of time and much futile labor, and there is little hope that such an uneconomical procedure can be modified. One original joint committee would be advisable if the

[1] Amendments to a conference-committee report are blocked in various ways. In the New York Assembly for instance the large appropriation bills after they have come from conference go to the Committee on Engrossed and Printed Bills and when reported printed by said committee, go to the Committee on Rules which always reports in favor of the passage of the bills *without amendment*. As the majority sees to it that this report is adopted amendments are then of course out of order. In the Senate also amendments are ruled out

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committee's power over amendments were increased. In Connecticut the reports of the Committee on Appropriations — which is a joint committee — are simply "explained" on the floor of each house by the Chairman on the part of the House and the Chairman on the part of the Senate respectively and the reports of the committee are always adopted. In Minnesota, on the other hand, where also a joint committee originally reports the appropriation bills to House and Senate simultaneously, amendments are always made and a conference committee is necessary before unanimity of action can be obtained. The practice in Connecticut would seem to be, therefore, the one to be emulated.

After the bill has passed both houses its career in the legislature has been run. It is then proclaimed as a law or — in the states where the governor is given the veto power—is sent to the governor for his approval.

II. *THE POWER OF THE GOVERNOR:*

In all but four states[1] the governor enjoys the veto power. In twelve out of the remaining forty-one states the governor has simply a general veto power—but in the remaining twenty-nine he enjoys in addition the power to veto items in appropriation bills. But the veto power so granted is not absolute. In most of the states two-thirds of the members elected to both houses may overrule the governor's veto, while in five of the states a simple majority suffices to do so.[2] In Maryland a three-fifths majority is necessary, while in Wisconsin two-thirds of those present is all that is required. Moreover the governor must return the bill with his objections within a prescribed time, or else it becomes a law irrespective of what he may wish.

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A few of the states allow the governor only three days to make up his mind;[1] a larger number allow five days; Maryland makes it six days, Pennsylvania, Ohio and a few others make it ten days while California allows twelve days. The practice is thus decidedly not uniform.

The general veto power is not very effective in budgetary legislation. The expenses of the state have to be provided for and it is inconceivable that the governor should object to an entire bill making provision for such a purpose. It is, however, very probable that certain items may seem objectionable to the governor or that certain items may be dispensed with in the interest of fiscal expediency. The power to veto items in appropriation bills is therefore the logical outgrowth of the veto power in general. Each item of appropriation is in essence a separate enactment and if the veto power be given at all it should be given in such a way that the governor may veto or approve each of such items.

Where the power to veto items in appropriation bills is given to the governor, it is found that he uses it very freely. In Ohio, where Governor Herrick was the first governor to enjoy the veto power, he as governor used his power so freely that he caused no end of resentment among the politicians. Moreover, the governor's veto on items in appropriation bills is rarely overruled. He usually has the best of reasons for exercising his veto and the fact is generally recognized. In addition to this the appropriations come as a rule near the end of the legislative sessions and it is therefore difficult to get another vote on vetoed items.

By his veto power the governor can make his influence

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get—the side which is of course the most important. If the governor's administrative responsibilities were increased and if the various officers of the government had to submit to him their estimates and furthermore if the appropriation bills were more minutely itemized, he could, by means of his veto power, control to a large extent the state's policy of expenditure. This would seem to be an end worthy of achievement.

III. *THE BUDGET DELAYED:*

M. Stourm, in his chapter "Refus du Budget,"[1] has the following to say: "To refuse the budget! One can scarcely conceive of the consequences of such an eventuality. If the year were to open without the budget having been voted, the bondholders could not touch their interest nor the pensioners their pensions; the tradesmen would beat in vain at the gates of the Treasury; the officials would work and would receive no pay; the schools would be closed; the army would be deprived of its pay, of its livelihood even, of its equipment, of its provisions. All the tributaries of the state, that is to say practically everybody would find himself affected; the life of the country would be stopped." The picture that this quotation conjures up makes us stand in fear and trembling before the prospect of the failure to vote the budget in due season. Yet a large number of our states exhibit a most refreshing carelessness in this particular.

It must be said, however, that the consequences of the failure to vote the budget suggested here by M. Stourm, would not be nearly so appalling or so far-reaching in our states. He had his own France in mind where the national government does exercise an oversight over all the local organizations and where a refusal of the budget would

[1] *Le Budget*, p. 380.

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in reality affect practically everybody. But in our country where national, state, municipal and even county governments are relatively independent the failure on the part of the state government to pass the budget on time would not have the direful consequences either extensively or intensively that would characterize a similar eventuality in France.

As a matter of fact in a large number of our states the budget is not passed until after the opening of the fiscal period for which it is intended. In nine states [1] the legislature meets in January shortly after the opening of the fiscal year itself, which in such states occurs on or about the first of the calendar year. In eight other states [2] although the legislature meets also early in January, the fiscal year—as was shown in the preceding chapter—begins one, two or three months before the opening of the legislative session. In these seventeen states then, unless some special arrangement is employed, there is bound to be a period when no appropriations for the expenses of the state are available.

There are however such special arrangements in some of these states. It was shown in the preceding chapter that Nebraska, Ohio and Tennessee have appropriation years that differ from, and are independent of, the respective fiscal years and thus appropriations are available for a period beyond the fiscal year. In Alabama, Colorado, Massachusetts, West Virginia and Rhode Island other provisions are made. In Alabama the general appropriation bill which makes appropriations for a period of four years,

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contains a clause that renews the appropriations made for the last year of such period, for the fiscal year immediately following up to February first. This constitutes a six months extension of the appropriation made for the last year of the period. In Colorado the legislature soon after the opening of its session makes haste to pass what is known as the "Short General Appropriation Bill" which makes provision for the first four months of the fiscal year current. In Massachusetts the general statutes [1] provide that the officers or boards may continue their several departments for a period that approximates two months, after the close of the fiscal year, at the rate of expenditure authorized by the appropriations during the preceding year. In West Virginia the General Appropriation Bill contains a provision which authorizes the auditor to make payment, to enumerated officers and institutions, during the first six months of the fiscal year immediately following the second year of the biennium for which the general bill provides, of sums of money not exceeding in the aggregate one-half of the amount appropriated for the officers and institutions specified for such second year. In Rhode Island the General Treasurer is authorized to pay one-sixth of the annual appropriations. Nevertheless, in Alabama, Colorado, Ohio and Tennessee, despite these special provisions, appropriations for the expenses of the state are regularly or occasionally late, that is to say, there is a period when no money for the expenses of the state is available. In the other states where the legislature does not convene until after the opening of the fiscal year and where there is no special arrangement for bridging over the intervening period an *hiatus* of this kind is bound regularly to occur.

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lature does meet before the opening of the fiscal year, it not infrequently happens that the appropriations of one period lapse before those for the ensuing period are legalized. This has been true recently in Arkansas, Nebraska and Virginia.

The question naturally arises, what is done in these periods when no money is provided? Do the activities of the state cease? We all know of course that they do not. As a rule, those who have claims for services rendered or materials furnished during such a period, trust the legislature to make good such claims, and it goes without saying that the legislature always recognizes this obligation. The officials do not quit their posts and the state never experiences any difficulty in obtaining the supplies it needs. Officials and claimants simply wait for their payment until the necessary appropriation is made. Sometimes extra-legal expedients are tried. In Delaware for instance, "the state treasurer assumes the risk and keeps things moving." In Nevada "the banks advance the necessary money."[1] The fact remains, however, that in a considerable number of our states there are periods when officials have to go without their pay, when the state institutions have to be run on "trust" and when private individuals have to make advances of money or materials in order that the activities of the state may not be brought to a halt.

This is an undignified and humiliating situation for which the fact that no great harm results is but a slight palliation. It is a petty thing for a great state to make its servants wait for the compensation that is justly theirs and it is undignified to expect private individuals to step into the breach and to provide the funds whereby the activities of

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to be made or the fiscal year ought to be changed to conform to the practice of the legislature in legalizing the appropriations, in order that a condition of this kind could not arise.

IV. *THE APPROPRIATION PERIOD:*

(*A*) *Lack of Importance:* The question whether all the public moneys should be voted at each regular session of the legislature or not is one that involves, for the most part, purely constitutional considerations. The question as usually put is, whether all moneys should be voted annually or not, but in our states—owing to the fact that in a great majority of them the legislatures meet only biennially—the question would have to refer to a biennial rather than an annual period. But since the question is one whose great significance rests upon considerations of constitutional law it is not one that, from the point of view of finance, has, in our states, very much importance.

The practice of voting public moneys for only a year at a time arose because the people feared to make the executive independent of the legislature for any considerable period. It was considered dangerous to the popular liberties to allow the executive any such independence. Money voted for a long period of time might easily be used for executive aggrandizement and for the defeat of the popular will. It was pointed out in the first chapter, however, that in our states there is no longer any fear of the executive, and that the problem in the states is one of administrative efficiency rather than of the establishment of constitutional principles. It would, therefore, serve no very useful purpose to linger for any great length of time upon this particular phase of the states' financial practice and little more than a cursory examination of it will be attempted.

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(*B*) *Constitutional Provisions and Practice:* Some twelve of the states have constitutional provisions bearing on the question under consideration. In eleven states [1] these provisions specifically or implicitly limit all appropriations to two years, although it is suspected that they are aimed at the legislature rather than at the executive in such states. In Tennessee the courts have held that one general assembly cannot make an appropriation beyond the term of its existence.[2] Alabama also has the unique provision that no appropriation for a standing army can be made for a longer term than one year. In all the other states, however, the matter rests entirely in the hands of the legislature.

Turning, then, to the actual practice, it is found that a comparison of the various kinds of appropriations employed in the states with those employed by the general government will help to place the matter in a somewhat clearer light. In the practice of the general government there are three kinds of appropriations: (1) annual, (2) permanent annual, and (3) permanent specific. These are fully described by Professor Adams in his "Science of Finance." [3] The "annual appropriations" are those which have to be regularly voted by Congress each year. The "permanent annual appropriations" are for certain regularly recurring expenses which cannot possibly become the subject of political controversy, and which are therefore voted once for all. A certain amount of money stands annually appropriated for such various expenses until the law is changed or repealed. The "permanent specific ap-

[1] Arkansas, Illinois, Kansas, Louisiana, Mississippi, Missouri, Montana, New York, Ohio, Texas and Washington.

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propriations" are made for specific objects, and such appropriations stand until the respective objects so provided for are accomplished.

The appropriations in the states are similar in general nature, although the names applied to the various classes differ somewhat. The appropriations in the states corresponding to the federal "annual appropriations" bear, as far as could be discovered, no regular name. These appropriations will, therefore, in this place be considered under the name of "ordinary appropriations," because they have to do, for the most part, with the ordinary expenses of the state government. The state appropriations analogous to the federal "permanent annual appropriations" are most widely known as simply "annual appropriations." The "permanent specific appropriations" find their counterpart in the state "special appropriations," and it is under the latter designation that they are considered here.

(*C*) *Ordinary Appropriations:*

These are, of course, the most common. They cover the ordinary expenses of the state government, state institutions, etc., and are voted anew at each legislative session. They are included in the general or regular appropriation bills which are passed in most of the states. The appropriations expire ordinarily at the end of the fiscal period for which they are provided, and whatever balance remains reverts to some general fund of the treasury. There are, however, some exceptions to this general statement. In Maryland each appropriation is considered a separate and continuous fund and balances are carried forward from year to year. In Massachusetts, where there are annual legislative sessions, the appropriations run one year in ad-

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Minnesota the state auditor "has the authority to extend all appropriations made in case of absolute necessity for the best interests of the state." In West Virginia appropriations may run three years, although the auditor writes that most of them are drawn before the expiration of the fiscal period.

(*D*) *Annual Appropriations:*

These are fixed by general laws, which remain on the statute books until changed or repealed by the legislature. They make a specified appropriation for a particular purpose for each year, and until the law is changed or repealed the amount specified is available for such purpose each and every year. In the case of these appropriations any unexpended balance at the end of each year is covered back into the treasury. "Annual appropriations" are very common in the states, almost every state in the Union having them in some form or other. They are, of course, more common in some states than in others. In North Carolina, New Hampshire, Kentucky, North Dakota, Michigan and Wisconsin almost the bulk of the regular expenditures are provided for by means of "annual appropriations." In a very large number of states the incomes of the permanent school and other trust funds and certain other moneys which may be regularly added to such sums are paid out each year without appropriation by the legislature. In most cases such appropriations are made according to constitutional requirements. School moneys, for instance, are simply apportioned each year according to some accepted basis of apportionment—usually the number of children of school age in each county.

As a sort of sub-class under "annual appropriations"

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priations of particular amounts each year, for specified purposes, but only for two, three or four years, as the case may be. These appropriations thus lapse at the end of the specified period without further action on the part of the legislature.

(*E*) *Special Appropriations:*

These are extremely common and numerous. In a greater or less number they are made at each session of almost every state legislature. They are made for the accomplishment of a specified purpose, and until such purpose is accomplished the money is available. Where, however, constitutional provisions limit appropriations to any specific period, "special appropriations" are also of necessity governed by such provisions. If the purpose be accomplished before all of the available "special appropriation" is expended, the balance simply reverts to the general fund of the treasury.

On the side of revenue there is, of course, little to say. Revenue systems are necessarily permanent. The only question that arises here concerns the regular adjustment of the system to the needs of the state. It has been already shown how most of the states have general statutory provisions which make the regular voting of revenue measures unnecessary, and the other states where such measures are regularly voted were also referred to at sufficient length. Further consideration of the question at this point would, therefore, be superfluous.

After this rather hasty account of the periods of appropriation in the states the final point that remains to be considered in this chapter has to do with the discrepancies

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V. THE DISCREPANCIES BETWEEN THE ESTIMATED AND THE EXECUTED BUDGET:[1]

Some discrepancy between the estimated and the executed budget inevitably arises. No human beings are endowed with prescience to such an extent that they can gauge with absolute accuracy the conditions of the future. Unforeseen exigencies are bound continually to arise. So in one particular or another the financial estimates that are originally made come wide of the mark. The discrepancy may be on the side of revenue or on the side of expenditure, and therefore some attention will be paid to each in turn.

(*A*) *Discrepancies between Estimated and Actual Revenue:* The discrepancy between estimated and actual revenue may involve a surplus or a deficit. A surplus is never the cause of much worry, and ordinarily there are no provisions concerning it. The revenue laws cannot be re-adjusted until the legislature meets, and the surplus must continue to grow until then. Florida has a unique statutory provision which allows the governor to reduce the tax rate on property if conditions seem to warrant it. The real problem in this connection, as Professor Adams points out, is to keep the surplus in the ordinary channels of trade. This has to do with the safekeeping of the public funds and will be taken up in a later chapter.

A deficit in the revenue yielded is, however, a more serious matter. When appropriations are authorized, the funds with which to meet them must be supplied. When the legislature has once adjourned and the rate of taxation has been determined, no way of increasing the tax levy presents itself. Other means of raising funds have, therefore, to be relied upon. The usual procedure is by some

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form of temporary loan to supply the needed funds until the legislature can provide additional sources of revenue.

A few examples of the means employed to this end will now be given, although it is not supposed that the question as to what particular form of temporary loan is used constitutes one of any great importance. A common practice is, when warrants are presented and no funds with which to pay them are at hand, for the treasurer to endorse the warrants "not paid for want of funds," after which the warrant draws a specified rate of interest—six or seven per cent. as the case may be in any particular state. Then when the treasurer obtains funds sufficient to liquidate some or all of the warrants so endorsed, he gives notice by mail or advertisement that the warrants outstanding and drawing interest will be paid. Within a period of time specified by law the payment of interest then ceases. Kansas and Iowa, for instance, allow a period of thirty days to elapse before interest ceases. In Idaho the prescribed period is ten days, while in California interest ceases immediately after the first publication of the treasurer's notice. As a rule, however, the rate of interest that a state would have to fix for unpaid warrants in order to guarantee the holders against any loss or depreciation would be higher than the rate of interest the state would have to pay if it were simply to borrow funds on its own credit in the market. Ordinary loans may, therefore, in the first instance be more economical. As a matter of fact these are generally provided for in the states, so that warrants may be paid when presented or quickly redeemed if out at interest.

A few examples of the means employed in this particular will, therefore, be useful. In Minnesota[1] the governor, auditor and treasurer are authorized whenever in

[1] *Laws of Minnesota*, sec. 519.

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their judgment it becomes necessary, in order to meet the current demands of the revenue fund (which is the fund out of which the regular expenses of the state government are paid) to make agreements "with banks or other corporations or persons" to pay warrants issued against the revenue fund. For this service the designated officials may agree on the part of the state, to pay interest at a rate not exceeding 6% per annum until the state treasury can redeem the warrants so paid. The aggregate amount, however, is limited to $100,000. Furthermore, the state treasurer is authorized [1] to borrow and use temporarily from funds having an available balance in the treasury an amount not exceeding $200,000 to supply any deficiency that may exist in the revenue fund. In New York [2] the comptroller is authorized to make temporary loans from time to time as the legal demands on the treasury make necessary at a rate of interest not exceeding 5% per annum. "Transfer certificates" are issued for such loans, the interest of which is payable semi-annually and the principal at such time within seven years when the comptroller thinks that the state treasury will be able to pay the same. In West Virginia [3] the governor may raise temporary loans running eighteen months at interest not exceeding 2 cents per $100 per day in such amounts as may be necessary to supply the wants. In North Dakota [4] the state treasurer, with the advice and consent of the governor, may borrow money to meet warrants when funds can be obtained at a rate of interest not exceeding 8%. The auditor is directed

[1] *Laws of Minnesota*, sec. 315.

[2] *Laws of New York*, 1902, sec. 1, amending chap. 10, sec. 14, of the *Finance Law*.

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to issue "funding warrants" in place of those so paid. The funding warrants are limited to $80,000 and may not anticipate the needs of the state for a period longer than sixty days. In Louisiana [1] the governor and treasurer are authorized to provide a loan only for deficiencies that would prevent the state from meeting the interest on its bonds. In Kentucky, according to the auditor, if a deficit occurs in one fund a sufficient amount to cover it is borrowed from another fund. These examples will probably suffice to show some of the means employed to overcome by means of short-time loans, casual deficiencies in the revenue.

The constitutions of at least thirty-two of the states have provisions which limit the amount of indebtedness for such casual deficiencies of revenue that the respective states may contract.[2] The constitutions of Arkansas and Florida practically prohibit any new debt, while that of Louisiana allows a debt to be contracted only when the funds for the payment of the interest on the existing debt are not at hand. In twenty states [3] the aggregate amount of indebtedness for casual deficiencies that the state may carry at any one time is limited to amounts varying from $50,000 in Michigan and Maryland to $1,000,000 in New York and Pennsylvania. In Colorado the aggregate limit is placed at ¾ of a mill on each dollar of the assessed valuation of property in the state, and when such assessed value reaches one hundred millions of dollars the debt for casual deficiencies may never exceed $100,000. Idaho and Wyoming place a similar maximum limit at 1½% of the as-

[1] *Laws of Louisiana*, sec. 3798.

[2] See Chapter I.

[3] Ala[illegible] Cali[illegible] Colo[illegible] Ill[illegible] Iowa

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sessed valuation of the property in the state. Colorado also limits the amount of such indebtedness that can be contracted in any one year to ¼ mill on each dollar of the assessed valuation. In Missouri the constitution allows such a debt to run only two years, while in seven other states[1] the respective state constitutions provide that a deficit of one year has to be made good by a sufficient tax the following year. In the states which have no constitutional limitations upon indebtedness the legislature exercises full discretion.

(*B*) *Discrepancies between Estimated and Actual Needs:* A discrepancy of this kind might also include a surplus as well as a deficiency. It is only deficiencies, however, that require remedial action, and they alone will be considered here. These may be provided for in three different ways: (1) a supplementary budget may be voted; (2) deficiency bills may be passed; (3) administrative appropriations may be made. Administrative grants may in turn be made in three different ways: (*a*) by an increase in the appropriation made originally by the legislature; (*b*) by the transfer of a surplus of one service to some other service; (*c*) by placing in the hands of the administration a limited fund to be used at its discretion.[2] An attempt will be made to consider these in turn and to ascertain to what extent each may be employed in our states.

First of all, however, it must be said, that in all the states the attempt is made to discourage the practice of allowing deficits to arise. Various legal provisions may be found whose object is such discouragement. In Massachusetts,[3]

[1] Minnesota, Nevada, Oregon, South Carolina, South Dakota, West Virginia and Wisconsin.

[2] *Cf.* Adams' *Science of Finance*, p. 181.

[3] *Laws of Massachusetts*, chap. 6, sec. 40.

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for instance, the laws provide that no officer shall make purchases or incur liabilities in the name of the commonwealth for a larger amount than has been appropriated for the service or purpose for which such purchases have been made or liabilities incurred, and the commonwealth cannot be held responsible for any excess. In Kansas [1] every official empowered to direct the expenditure of money is expressly prohibited from making any contract or agreement for any purpose whereby the expenditure of any greater sum shall be contemplated than is expressly authorized by law. A violation of this section constitutes embezzlement of the amount in excess of that expressly authorized by law and involves a possible punishment of five years at hard labor in the state prison. In other of the states the appropriation bills themselves provide that appropriations shall not be exceeded. A few examples illustrating the general character of such provisions may not be amiss. In Missouri a deficiency created is made chargeable to the officer creating the same. In North Carolina, also, officers are held personally liable for deficiencies and the treasurer is forbidden to pay out more than the amount appropriated. In South Carolina a contract or agreement by any state officer, providing for an expenditure in excess of the levy for any particular purpose is made a misdemeanor. In Tennessee an officer creating a deficiency can be held personally liable, the comptroller is forbidden to draw his warrant for any excess, and the treasurer is ordered not to pay any warrant overdrawing an appropriation. California has a provision that is rather novel. The general appropriation bill provides that not more than one-

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month without the consent of the State Board of Examiners and not more than one-half of such appropriations during the first fiscal year. In the last place it is found that two states — Illinois and Minnesota — have constitutional provisions which necessitate a two-thirds vote for any increase, by one legislature, in the aggregate appropriations for expenses of government made by the preceding legislature. All such provisions, however, are but safeguards and not absolute preventives. Deficits will inevitably arise in this department and in that—at one time or another.

This leads us again to the means employed in providing for such deficiencies.

(1) *Supplementary budgets* are not used anywhere in the states. In the majority of cases the legislative sessions are too short to permit them. In three states there seem to be what might at first glance be called supplementary budgets. In Colorado there is a "Short General Appropriation Bill" that runs for four months and is then superseded by the "General Appropriation Bill" for the full fiscal term. This second "General Appropriation Bill" might, therefore, seem to be a "supplementary budget." As a matter of fact, however, it is the real budget, while the "Short" bill is only a temporary expedient put into operation to supply funds while the large bill is being prepared. In the same way, in New York, the Supply Bill or the Supply Bill-Supplemental might be considered supplementary budgets, whereas in fact the Supply Bill and the Supply Bill-Supplemental are simply amendatory acts. They do not supersede the General Appropriation Bill but simply make certain additions to it. Finally, in Ohio, also, there is a

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supersedes the original budget. In no other state is there any bill that approximates a supplementary budget even to the extent that characterizes the examples referred to above.

(2) *Deficiency bills* are the common means of granting additional funds in our states. Eleven states[1] have regular, more or less comprehensive deficiency bills, specifically so-called and limited to the purpose of supplying deficiencies, or bills that also carry original as well as deficiency appropriations. Thus Ohio has two regular deficiency bills, one for "authorized deficiencies" and one for "unauthorized deficiencies." In Kansas appropriations for deficiencies are made in the Executive and Judicial Appropriation Bill, although there are in addition occasional deficiency bills for special purposes. In New York the "Annual Supply Bill" carries most of the deficiency appropriations, while in Pennsylvania the General Appropriation Bill performs a similar function. In all the other states there are occasional or incidental deficiency bills when the necessity for them arises.

(3) *Administrative Appropriations:*

In a country where the legislature is so predominant as is the case here it is not to be expected that administrative appropriations of any kind will enjoy a great vogue. Some attention will, however, be given to each of the three possible ways of making such appropriations.

a. *Extension of Original Grants:* So far as it has been possible to ascertain the facts, it is in only two states that the administration is given the right really to grant additional allowances. In Connecticut the Board of Control, consisting of the governor, treasurer, comptroller and attorney-

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general, may increase an appropriation by unanimous consent only. In North Dakota the governor, auditor, and secretary of state form an emergency board which may in extreme cases make additional grants. Petition is made by the department or institution needing such additional grant, and the board signs an order to the state treasurer and the auditor ordering that an additional amount be given.

In eleven other states,[1] however, the administrative authorities are vested with the power to allow officials to create deficiencies, and this approximates the power to make an additional grant, although further legislative action is necessary before the funds are really supplied. In California the State Board of Examiners, consisting of the governor, secretary of state, attorney-general, and an elected secretary of the Board, may, by a certificate in writing duly signed by every member of the board, allow any department, etc., to create a deficiency, and the matter is brought up before the next legislature, which provides payment. In Colorado the governor and the attorney-general may approve the creation of a deficiency if the necessity of its creation is caused by a casualty happening after the regular appropriation has been made. The auditor gives a certificate of the amount and the matter is reported to the legislature for final action. A section of the General Appropriation Bill in Idaho regularly authorizes the State Board of Examiners to permit deficiencies to be created. The Board issues deficiency certificates for the amounts authorized, and these are then provided for in the

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tions the officer in charge of the same must, on or before January 15th, report to the auditor the details of such expenditure and the reasons therefor, and the auditor must make a special report of the same to the General Court early in its next session. Ohio has an emergency board consisting of the governor, auditor, attorney-general, and the chairmen of the House and Senate Finance Committees, and this board may authorize deficiencies, which are taken care of subsequently in the "authorized deficiency bill." At least four of the members of the board must approve such deficiencies, which means that the legislature practically maintains a veto power over such administrative authorizations. Without describing in detail the arrangements made in the other states of the eleven referred to, it may be said that there is in each some official or board empowered to grant authority to create deficiencies, but final action must always be taken by the legislature before the actual funds are forthcoming.

b. *The transfer of amounts from one appropriation to another* by the administrative authorities is in the states more or less completely under the legislative ban. In North Dakota the Board of Examiners may, in extreme cases, make such a transfer of funds, but the rule is, practically everywhere in the states, that an appropriation made for any specific purpose, may not be used for any other purpose. Stringent statutory provisions are aimed to enforce this rule. Some examples chosen at random will illustrate the general character of these provisions. In Maine,[1] for instance, the laws provide that "money appropriated for the various branches of expenditure in the public service shall

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"money provided for a specific purpose shall not be used for any other purpose." In North Dakota the laws declare[1] that no money "appropriated for any specific purpose or fund" shall be "used for or transferred to any other purpose or fund." Finally, in Oregon[2] a provision to this effect is found: "When any moneys shall have been collected or received by any officer for any distinct and specified object, no portion of them shall be paid or applied to any other object or purpose without due authority, but shall be kept a separate fund for such specified object." The section further provides for a punishment of $500 fine and six months' jail for a violation of its provisions. It would thus seem that this particular method of making supplemental grants enjoys no favor in our states.

c. *Independent Funds:* Almost all of the American commonwealths provide their respective governors with the means of obtaining funds in cases of emergency. Strikes and other disorders may necessitate the employment of the state troops, and the funds necessary for such a purpose must be always available. But funds so obtained or so placed in the governor's hands for military purposes, rewards for the arrest of criminals, etc., may not be used to supply deficiencies in the ordinary civil departments of the state government. In Colorado a certain fund is given to a board known as the State Auditing Board, which is composed of the governor, attorney-general and auditor, and to this board the chief officers of the departments, etc., make estimates of supplies needed and the board acts thereon. This is not, however, a fund which the administration can use at its discretion, but is one which must

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learned that any state of the Union puts in the hands of the administrative authorities any fund — outside of the usual small incidental funds—which such authorities may use at their discretion.

In general, therefore, it may be said that legislative deficiency bills are by far the most important means of allowing supplemental credits in our states. The complete supremacy of the legislative bodies in matters of financial legislation and policy is maintained even in this particular.

VI. *SUGGESTIONS FOR THE IMPROVEMENT OF THE BUDGETARY PRACTICES OF THE STATES:*

The attempt to make any suggestions relative to the improvement of the budgetary methods in our states encounters some serious difficulties. At present there are forty-five states in the Union, and in no two of them are conditions exactly similar. Governmental theories, traditions, institutions and practices vary much more in our country from section to section and from state to state than is ordinarily supposed. It might easily be the case, therefore, that a suggestion made for one state would prove hopelessly inapt when applied to another state. Consequently when forty-five states are under consideration it is obvious that it would be futile to attempt to do more than make certain general suggestions that might be regarded as more or less applicable to all of the states.

In giving these suggestions we cheerfully acknowledge our debt to Professor Henry C. Adams. He has considered at some length the defects of the national system, and he gives some valuable suggestions relative to its reform. The defects of the national system are, to a greater or less degree, also the defects of the systems in the states, and the suggestions offered for the reform of the one may be ap-

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plied with some modification to the others. All that is necessary in this place is thus little more than to apply Professor Adams's suggestions to conditions in the states, modifying them as these conditions seem to demand.

The attempt was made in the first chapter to show that the practice in the states was characterized by an absence of executive influence in the preparation of the budget. The peculiar fitness of the executive branch of the government for this important task is universally recognized, and therefore it may safely be suggested that the aim in the states ought to be to increase the influence and the authority of the executive in this particular.

The question that immediately presents itself is, of course, how can this aim be achieved? In the national government Professor Adams advises that the authority of the Secretary of the Treasury be increased. In our states, however, there is no officer who corresponds very closely to the Secretary of the Treasury. The comptrollers and the auditors of the various states stand in somewhat the same relation to the state fiscal organization that the Secretary of the Treasury does to the national organization, but notwithstanding this there seem to be certain considerations which make it appear advisable to throw the responsibility of the administration of the fiscal system generally, and that of the preparation of the estimates in particular, upon the governor rather than upon the auditor or comptroller. In the first place, the ordinary state auditor has too many routine duties to enable him to exercise the complete oversight over general conditions in the state that the preparation of the budget would demand. In the second place—and this is really the important consideration—the administrative organization of the state is not so complex as it is in the national government. The governor has no formal cabinet, as is the case with the President, and the

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tendency in our states is to hold the governor personally responsible for the administration. As the comptrollers and auditors are, in the great majority of cases, officials elected by the people, the governor cannot be held responsible for officials who are thus thrust upon him. Furthermore, he is in a position to exercise a complete oversight over general conditions in the state, and the natural dignity and authority that his office already bears would make much easier the task of vesting him with the added financial authority in question than of vesting it in the auditor or the comptroller.

It is assumed, then, that it would be advisable to give the governor increased authority over estimates. The under-officers ought to submit their estimates to him. He would, of course, have always to consult the auditor or the comptroller and advise with him, but the chief responsibility should rest upon the governor himself. The two officials thus working together could prepare a budget by which the administration would be willing to stand.

Then, in the second place, the under-officers should not be allowed to appeal to the legislature over the governor's head. If such officers are dissatisfied with the governor's estimates for their departments they ought not to be allowed independently to appeal to the legislative committee considering the budget, but their complaints ought to come through the governor's hands. If, however, such suggestion be considered too radical, somewhat the same result could be obtained by giving the governor the veto power over items in appropriation bills and by providing at the same time that such bills be carefully itemized. The governor could thus veto the items that seemed to him objectionable. As a matter of fact, the governors of twenty-nine states already enjoy this power, and as state constitutions are amended with relative ease, the remaining six-

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teen states could without much difficulty vest their governors with a similar authority.

The budget as so presented by the executive could not, of course, have any legal value under our institutions. The right of the legislature to initiate all legislation is too fundamental even to suggest the possibility of modifying it in matters concerning the public moneys. If, however, all communications of the employees and officers of the state to the legislature had to be made through the governor as the superior executive officer—as would seem only fitting under any circumstances—and if, while the governor enjoyed the right of vetoing items in appropriation bills, all appropriations for the expenses of the state were carefully itemized, it would seem fairly apparent that the budget as presented by the governor would carry with it an authority immeasurably greater than do those budgets reported to the state legislatures at the present time.

The second suggestion has to do with the divided responsibility over budgetary matters in the legislature itself. There is great diversity in this particular from state to state, but, as was shown in the preceding chapter, conditions as a whole in the states are better than in the national Congress. A few of the states do centralize the control of both appropriations and revenue in one committee and a considerable number of others give single committees final oversight over appropriations and revenue respectively, but as far as can be discovered the tendency as a whole is not toward this centralization of financial authority. Such centralized control is, however, necessary before a well-

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viously the best means. Professor Adams points out how such a committee might be assisted in its work by the other committees if it should prove that the labors of a single committee in charge of all money matters would be too arduous. The fact that it works in some of the states even under latter-day conditions, as in Connecticut, would seem to indicate that the plan could be applied—not without some difficulty perhaps—in all of the states. Some unity of action between the two great financial committees could be assured by having the chairman and—let us say—one other member of each of the two committees regularly appointed to the other committee. The chairman of the committee on appropriations is usually the majority leader, and on the appropriation committee the minority leader also is usually placed. These two could, therefore, with peculiar fitness be appointed to the revenue committee as well. Whatever plan be adopted the aim ought to be to centralize the legislative control over money matters.

This suggestion naturally implies considerable augmentation of the committee's power. Assuming that there is one committee, it ought to have final say as to all financial bills however introduced and as to all amendments offered to such measures. It will probably never be possible to take away from individual members of the state legislature their right to initiate money bills, and in our states it is not obvious that it would be wise so to do were it possible; but nevertheless the committee in charge of financial—or perhaps better—budgetary matters should have the final authority in deciding whether measures independently introduced or amendments should be considered by the house at large. With centralized responsibility it is not likely that the committee would report measures that might endanger the financial equilibrium or interfere with the or-

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derly application of a financial policy which the committee had already outlined.

Finally, it would seem necessary to refer once more to the questions of the form of the budget and the fiscal year. These questions were, however, treated at sufficient length in the previous chapter and it is unnecessary to repeat at this point such suggestions as were there ventured.

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CHAPTER IV

THE EXECUTION OF THE BUDGET

A STUDY of the execution of the budget in the various states, if carried out logically and completely, would involve a thorough account of the revenue systems in such states, as well as an exhaustive discussion of the methods of financial administration. Execution of the budget means a carrying-out of the budget law and as, strictly speaking, all the money which comes into the state treasury and all the money which is paid out by the state finds a place in the budget law, an account of the execution of that law would involve the burden of telling what the various kinds of income are, how they are collected, and how, when thus collected, the money is disbursed. Such a task, if fully accomplished, would require several large volumes, and it is reasonably obvious, therefore, that in an unpretentious treatise of this kind some very definite limits have to be recognized.

The subject-matter of the chapter divides itself naturally into three parts, concerning, respectively, how the money of the state is collected, how it is kept when collected, and how it is paid out to those to whom the law declares it to be due. The divisions will be considered in the order suggested.

PART I. COLLECTION

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—may be roughly divided into four classes: (1) revenue derived from public property; (2) revenue derived from fees; (3) revenue derived from fines and penalties; (4) revenue derived from taxation. Most of the states have public lands which they sell or lease and from which they thus derive an income; or they have more or less extensive public works, such as levees or canals; or they own shares in banks or railroads or other enterprises which yield some return. Then all of the states have systems of fees, more or less extensive, according to which certain special services which the state performs are charged for and which, consequently, are also a source of revenue. And in the same way all the states get some return from the fines and penalties that are levied in penal cases. Now if the attempt were made in this place, in order to give a logically complete account of the execution of the budget, to tell how the various states manage their public lands and sundry other kinds of public property, or to explain the various systems of fees, for what services charged and how and by what officers collected, or, in the last place, to show how, in the state courts, the fines and penalties are collected, it would necessitate the piling-up of a mass of details which, the author must confess, he has not sufficiently accumulated and which are really not of sufficient importance to warrant their introduction into a chapter of this kind. The great bulk of the revenue of the states is derived from taxation, the other sources are only incidental sources and suffer correspondingly in importance. For these several reasons, therefore, no very special attention will be given to the collection of revenue from any source other than taxation.

It becomes necessary to point out again, however, that there are forty-five states in the Union and that each state has a tax system more or less peculiarly its own. Some

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states, like Texas and Oregon, still have the early form of the property tax, which is practically the sum total of the tax system, while other states, like New York and Pennsylvania, have various highly specialized kinds of taxes that are administered each according to its own principle. Thus, from section to section and from state to state, there are, in matters of taxation, diversities so numerous that it becomes impossible within the limits here observed to go into any detail concerning them. The aim will be, therefore, to consider only the more common and the more important taxes and to tell in as general a manner as possible how they are assessed and collected.

I. *THE GENERAL PROPERTY TAX:*

The first tax with which we are concerned is, of course, the general property tax. In all but a few of the more progressive states it is still the very backbone of the revenue system and although it is universally assailed by financial writers it bids fair to hold its own for a considerable period to come.

The study of the methods employed in collecting the general property tax involves, in the first instance, a study of the methods employed in assessing it. Assessment is itself made up of two processes, the "valuation" or the determination of the taxable amount of the "base" and the calculation of the amount of taxes due upon any particular aggregate of "units" of the base. In general outline our task is then, to give some account of the methods of assessing the property tax and also of the methods of collecting the tax after the assessment or the determination of the amounts due have been made. The tax on the property of individuals will first be taken up, then on that of corporations in general and finally on that of certain special kinds of corporations.

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(1) *The Property Tax on Individuals:*

Valuation: Uniformity and equality in taxation demand that the general process of valuation be under the direction of the state government itself. If the minor jurisdictions were given the power to decide what forms were to be used, what means employed, etc. in this important process, conditions would be intolerably worse than they are now—though admittedly bad enough. The state governments themselves uniformly decide what particular methods, forms, etc. are to be employed in the valuation of taxable property. In some states these matters are taken care of in the laws but in most of them the officer at the head of the fiscal system of the state or some special officer or board is charged with the duty of prescribing the rules and regulations pertaining to the business of valuation.[1] The point is that the first step in the process of valuation is always under the direct supervision of the state.

The actual process of valuation must however be carried on in small areas. In the first place the time is limited and this fact requires that the process be carried on simultaneously within areas that are small enough to allow a completion of the task before the end of the period allotted for the purpose. In the second place conditions from place to place vary and justice demands that an authority acquainted with local conditions evaluate the property in each district. It is, therefore, the uniform practice in the states to turn over to the authorities of the minor jurisdictions or to local agents the task of discovering and listing the property to be assessed and valuing it in the first instance.

[1] In Maryland, for instance, we find that such authority is vested

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A large number of states make the minor civil divisions of the states the assessment districts. In a great many cases the county is the assessment district and the county assessor is the responsible assessing officer. The township system according to which there is an assessor for each township is in vogue in the states formed from the North West Territory and in a few others. In some of these, however,—Indiana and Illinois for example—there is a mixed system. Not all counties are under township organization and in those counties where this system of organization has not been adopted the assessment is made by the county assessor for the county as a whole. In other states—Georgia and Florida for instance—the counties are divided into assessment districts and an assessor is simply appointed for each. Then in the New England States each town is responsible for its own valuation, the town assessors—one or more — being chosen at the regular town meetings. Furthermore, cities are often given a certain autonomy in this matter.

In making the valuation a distinction is uniformly drawn between real estate and personal property. There is a wide variation in the legal definition of these two forms of property, from state to state, but that is of little consequence here. Attention is simply called to the fact that although personal property is as a rule valued every year, in some of the states the valuation of real estate takes place only once in a period of years. But in all of such cases changes in value caused by improvements, on the one hand, or destruction, on the other, are periodically taken into account whenever the assessment of personalty is made.

As a first step in his task, the assessor takes the blanks provided for him and proceeds to get one into the hands of every person liable for taxes. These blanks vary in form from state to state, but in most cases they include an elabor-

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ate classification of property in order that every kind of property may be listed. The assessor carries the blanks in person to the home or place of business of each person liable for the property tax, or sends it by mail. The person in legal control of property liable must fill out the blank and thus indicate,—supposedly accurately and fully—the various amounts and kinds of property for which he is liable. He must then take an oath, administered by the assessor, to the effect that he has listed all his property, etc. The assessor is however given broad powers of examination. He may examine under oath the person making the statement, may examine books, subpoena witnesses, etc., or may cite the person to appear in court for such examination. Furthermore the assessor may place his own valuation on the property listed and need not accept that given by the person who did the listing. The law usually declares that all property should be valued at "full cash value" or "market value" but the assessor may uniformly determine for himself what such amount should be.

The assessment blank has to be filled out and returned to the assessor within a prescribed time. In case a person refuses to fill out his blank the assessor lists the property as best he can. Sometimes also persons refuse to answer questions or to take oath to their lists. For these offenses divers punishments are provided—the valuation of the property may be doubled or redress may be denied if the assessor's valuation is unjust or a money fine may be inflicted or the guilty person may even be thrown into prison. Every effort is supposed to be made to get all property liable entered on the tax lists and when so listed to have it valued according to some just and common standard.

In a few states the work of the regular assessors is sup-

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as the "inquisitor system," in Iowa the "ferret system" and in Kentucky the system of revenue agents. Wherever a system of this kind is found the methods employed are about the same. It is the "inquisitor's" business to "ferret" out all property that is not properly listed and to see to it that such property is then entered on the lists. He is paid a high commission (20% or thereabouts) for all taxes that are collected on the property which he has caused to be entered on the lists and this, of course, acts as an incentive to diligence and watchfulness on his part. Most critics claim, however, that all these systems are, on the whole, a failure and represent them as the final desperate attempts to enforce that which is really not enforcible.

When all the lists are in, the most arduous part of the assessor's labor is completed. He has then to prepare the "abstracts," "assessment books," etc. In the assessment books or rolls the taxpayers of his district are given in alphabetical order and the amount of each kind of property for which each individual is liable is shown. The assessor himself must then append to the assessment books his affidavit that he has to the best of his ability honestly carried out his duties as prescribed by law. This means, of course, that he has not willfully neglected to enter any property liable and that he has not willfully undervalued any that was listed. The assessment books with the lists made out by the taxpayers are then deposited with the proper authorities—usually the town or county clerks or county auditors—and certified copies or abstracts of the books are sent to the responsible state authorities. This ends the

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are notified by mail of the amount for which they have been assessed. Naturally many will feel aggrieved and will desire to have their assessments readjusted. Inequalities will also inevitably occur as between locality and locality. Something must be done to remedy these things, and thus we find, in all the states, certain provisions for the equalization of assessments.

Equalization: Equalization of assessments includes considerations affecting not only the taxpayers as individuals, but also the various localities in the state—each assessment district compared with every other assessment district. To meet these several considerations various agencies have been contrived in the states and our purpose here is to take a general view of them.

Considering first the equalization of assessments between individuals, it seems rather obvious that each assessment district or unit of area should have an equalization board or authority of its own. In general it may be said that the smaller the assessment area, the more just is the assessment likely to be in regard to the individual taxpayers of such area, and the more accurately can it be reviewed. This would seem to be especially true of real estate.

In the states it is found that as a rule, some local authority for each assessment district has the power of reviewing the assessments of the property of the individual taxpayers in such district. In the New England states some town board is vested with the reviewing authority. In Connecticut and New Hampshire for instance the "Selectmen" of each town constitute the reviewing authority. In Maine and Massachusetts the assessors in each town sit as a board to which aggrieved taxpayers may appeal. In New Jersey each local district has "Commissioners of Appeal" or some other local board. In the same way it is found that in some of

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the western states where a number of the counties have township organization, there is some township board vested with equalizing power. These boards are variously formed, viz.: the Supervisor of the Township and two electors in Michigan,[1] the Board of Supervisors in South Dakota [2] and Washington,[3] the assessor, clerk and supervisor in Illinois,[4] the township trustees in Iowa,[5] and so forth. In the states where the county forms the assessment district we naturally expect to see the power of equalization vested with some county authority. In most of the states the county board of supervisors or the board of county commissioners constitute the county boards of equalization, although in others such county boards are made up in other ways. In Arkansas for instance the county board of equalization is made up of three citizens appointed by the Governor; in Indiana it is made up of the county auditor, treasurer and assessor; [6] in Nebraska, of the county commissioners, clerk and assessor; [7] in Oregon, of the county judge, clerk and assessor,[8] in Tennessee,[9] of five freeholders appointed by the Quarterly Court. In Georgia [10] the grand jury and in Louisiana [11] the "police juries" cor-

[1] *Laws of Michigan*, sec. 3851.

[2] *Laws of South Dakota*, sec. 2098.

[3] *Laws of Washington*, sec. 660.

[4] *Laws of Illinois*, chap. 120, sec. 86.

[5] *Laws of Iowa*, sec. 1370.

[6] *Laws of Indiana*, sec. 6381.

[7] Cobbey's *Laws of Nebraska*, 1903, sec. 10519.

[8] *Laws of Oregon*, sec. 3079.

[9] *Supplement to the Laws of Tennessee*, 1904 (757-823), sec. 33.

[10] *Laws of Georgia*, sec. 935. In Georgia a dissatisfied taxpayer may

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rect the returns in their respective districts. In most of the states therefore, whatever be the particular assessment district employed, each of such local areas or districts has some local authority for reviewing the assessments of individuals.

Where the equalizing authority is thus vested in some board, the usual procedure is to have the assessor appear before the board with the assessment roll to which his affidavit is attached,—at a prescribed or a regularly called meeting of the board. The roll is then carefully scrutinized by the Board and errors, etc. are corrected. The board may subpoena witnesses, examine books, etc. Assessments can be raised or lowered although, as a rule, reductions can be made only on the petition of an aggrieved taxpayer. In case of a change in any individual's assessment he is usually given sufficient notice of the change made and a notice of this kind must always be given if the change be in the direction of an increase in the assessment. The individual affected is then given an opportunity to be heard. Thus on the one hand the board may hear the petitions of aggrieved persons and lower their assessments and on the other hand it may increase the valuation of property that seems to have been undervalued in the lists.

Appeals from the decision of such boards are variously provided for. Where the board exercises jurisdiction in an area less than a county appeal may, as a rule, be taken to the county board of equalization, to some civil board specially vested with the power of hearing such appeals or to some county court. In most other cases where any appeal is allowed it is only to the courts. In Tennessee [1] and New Jersey [2] however appeal may be taken to the State Board

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Minnesota for example—the decision of the local board is final and the assessment roll approved by the local board must be "conclusively presumed by all courts to be correct." [1]

It is to be noted also that in some of the states regular equalization boards are not provided but other means of relief are afforded aggrieved taxpayers. In Rhode Island, for instance, an aggrieved taxpayer simply petitions the common pleas division of the supreme court in his county which court is given original jurisdiction.[2] In Virginia also appeal lies directly to the courts.[3] In West Virginia in case of a difference between the owner and the assessor as to personalty, each chooses a "discreet voter" and the two voters thus chosen act as an arbitration board. Their decision or that of an umpire chosen by them is final.[4] In Georgia also, although the grand jury has general power to correct the assessment roll, an aggrieved taxpayer may in the first instance have his grievance adjusted by a board of arbitration. The taxpayer chooses one arbitrator, the comptroller a second and the two arbitrators then jointly choose a third. The majority then fixes the assessment.[5]

Thus in one way or another, in every state of the Union, some means—more or less adequate—are provided whereby a taxpayer is supposed to be able to have his property so valued that his share of the public burden in proportion to his property is no greater than his neighbor's. It is notorious, however, that none of these schemes works out as it should.

[1] *Laws of Michigan*, sec. 3852 *et seq.* Of course for constitutional or similar reasons the roll may be attacked.

[2] *Laws of Rhode Island, Title VIII*, chap. 46, sec. 15.

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We turn now to the other phase of equalization. It was stated above that equalization of assessments must include the equalization of the valuations between the localities, i. e. between the local assessment areas—the towns or the townships of any particular county or between the various counties of the whole state. Equalization of this kind is provided for throughout the country.

The equalization of valuations in districts smaller than counties is of course limited to such states or counties within a state—where such districts are found. The county boards, in such cases, are given the authority to increase or decrease the valuation of any particular class of property or the aggregate valuation of property within any particular district. Usually, however, there is some provision which prevents the county board from increasing or decreasing the total valuation for the county beyond a prescribed percentage. Again, just as in the case of individuals a right of appeal is given, so in this case, a right of appeal from the decision of the county board is in some cases safeguarded to the town or district. In New York, for instance, appeal may be made to the State Board of Tax Commissioners [1] and in Iowa to the District Court.[2] In Michigan, however, the action of the county board is conclusive.[3]

For equalizing the valuation between the various counties most of the states have state boards of equalization. In about half of such states the "State Board of Equalization" is made up of various combinations of the regular executive officers of the state, while the other half have special boards.

[1] *Finance Law*, chap. 24, art. 8, sec. 174.

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The combinations of the executive officers to form such state boards are many and only a few examples will be given. In Iowa, the Executive Council is the State Board of Equalization;[1] in Kansas we find the Secretary of State, the Auditor and the Treasurer making up the board;[2] in Missouri[3] and Montana,[4] the Governor, Auditor, Treasurer, Secretary of State and Attorney General; in South Dakota, the Governor, Auditor, Secretary of State, Treasurer and Commissioner of Schools[5] — and so on. The auditor, however, seems to be always included in such combinations.

The special boards which contain members other than or in addition to a number of the regular state executive officers are also variously made up. In California the Controller and one member elected from each congressional district constitute the state board.[6] Illinois' board is similarly constituted with the exception of the auditor or controller who is not found thereon.[7] In Indiana the State Board of Tax Commissioners is also the State Board of Equalization.[8] In Kentucky the board is composed of one member appointed from each appellate division by the Governor;[9] in Maine, of the State Board of Assessors;[10] in New Hampshire, of five members appointed by the Supreme Court;[11] in New Jersey, of five members appointed[12] by the

[1] *Laws of Iowa*, sec. 1378.
[2] *Laws of Kansas*, sec. 7608.
[3] *Constitution, Art. X*, sec. 18.
[4] *Laws of Montana*, sec. 3800.
[5] *Laws of South Dakota*, sec. 2109.
[6] *Political Code of California*, sec. 352.
[7] *Laws of Illinois*, chap. 120, sec. 100.
[8] *Laws of Indiana*, sec. 6384 *et seq.*
[9] *Laws of Kentucky*, sec. 4628.
[10] *Laws of Maine*, ch. 8, sec. 4.

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Governor and in Ohio—where there is a decennial board,—of one member elected from each senatorial district in the state.[1] In South Carolina one member is elected from each county board of equalization to serve on the state board.[2] In Minnesota the state board is made up of the Governor, Auditor and Attorney General and one qualified elector from each judicial district appointed by the Governor.[3]

As a general thing, it makes no great difference how the membership of such a board is made up, but it would seem better not to have the individual members represent only a county. Where there is a representative from each county each of such representatives feels it his duty to work for a low valuation for his own county rather than for a just equalization of the assessments between all the counties. Where, however, the members of a state board represent a larger area—such as a judicial or a congressional district—or where they are appointed for the state at large, they are not apt to feel such a strong local obligation and the probability is that the equalization will be more justly carried out.

It is, then, the duty of these state boards to equalize the valuation between the counties or, as in Maine, between the towns. They may, as a rule, require the attendance of assessors, may subpoena witnesses and are given, in general, the powers necessary for making careful examination of all matters that may bear upon the questions which they have to decide. They equalize the valuation by adding to or deducting from any class of property in the state as a whole or in any county a certain percentage of its valuation, or by adding to or deducting from the aggregate valuation in a county such percentage as may be necessary for equaliza-

[1] *Laws of Ohio*, sec. 2818. [2] *Laws of South Carolina*, sec. 388.
[3] *Laws of Minnesota*, sec. 1555.

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tion. Sometimes a limit is put upon the change in the aggregate valuation of the property of the state that the board may make. In Colorado the board may not cause a variation in the aggregate valuation for the state of more than 10% and such variation may be only incidental to equalization.[1] Ten per cent is also the limit of variation in Idaho.[2] In North Dakota and Illinois the aggregate may not be reduced more than 1%.[3] In Minnesota no reduction at all may be made.[4] In South Dakota the board is forbidden to increase the valuation more than three millions of dollars.[5] In Nebraska instead of changing the valuation the board—which also determines the rate of the state tax—in order to equalize the assessment simply increases the rate of tax in each county which is undervalued.[6] In Kansas and New York the aggregate valuation may not be changed at all.[7]

When the entire process of equalization is completed it is the duty of the clerk or the secretary of the board to send a full notice of any change in the valuation of the property in any county to the county auditor or county clerk of such county. The county auditor or clerk—as the case may be—then adds to or deducts from the valuation of the property of each individual such percentage as the state board

[1] *Laws of Colorado*, Supplement, 1905, sec. 3927 v.

[2] *Laws of Idaho*, sec. 1385.

[3] *Laws of North Dakota*, sec. 1225. *Laws of Illinois*, chap. 120, sec. 100. Increase may not be more than 1% either. These restrictions do not apply to railroad property.

[4] *Laws of Minnesota*, 1897, ch. 134.

[5] This has been amended by ch. 65, *Laws of 1903*, so that the state board may now increase the valuation up to one hundred millions of dollars.

[6] *Laws of Nebraska*, sec. 4357.

[7] *Laws of Kansas*, sec. 7609. *Laws of New York, Finance Law*, ch. 24, art. 8, sec. 173. In New York this means simply that the aggregate valuation may not be reduced. It may, however, be increased.

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may have added to or deducted from the entire county valuation.

It must be mentioned, however, that in some cases appeals from the decisions of the state board are provided for. In Kentucky for instance the County Judge of any county may appoint three persons to represent the county before the state board which must grant a rehearing and which may again change the valuation.[1] In Pennsylvania the counties may petition the common pleas court of Dauphin County for a rehearing.[2] In Wisconsin appeal lies to the circuit court.[3] But in most states it may be said that unless exception be taken on constitutional grounds, the action of the state board is final.

Levying the Tax: When the state board has finished its task of equalizing the assessments the determination of the amount of the state tax to be paid by each county is then made. The amount of the state tax to be levied on the entire property of the state is first determined. If the legislature has simply voted a certain rate to be levied on property there is nothing to do but have the auditor or controller or corresponding official certify the rate to the local officer in charge of assessments. Where the taxes are voted in dollars and cents it is possible for the state authorities to compute the rate on the basis of the entire state valuation, or the taxes may be apportioned to each county or town in proportion to valuation and the county and town authorities then given the task of computing the rate. Both means are employed. In Idaho, Iowa, Montana and Nebraska, for instance, the state board of equalization determines the rate; in Maine this duty devolves upon the state

[1] *Laws of Kentucky*, sec. 4274.

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auditor; in Illinois upon the Governor, Auditor and Treasurer acting jointly; in Nebraska upon the Governor, Controller and Attorney General—and so on. In Kansas, Maine, Michigan, New Hampshire and some other states the taxes are first apportioned and the rates are computed by the local authorities. Oregon, however, has a scheme of apportionment that is decidedly unique. The Governor, Secretary of State and State Treasurer acting jointly compute from the various appropriations etc. of the legislature, the amount of revenue needed. Such amount is then apportioned among the counties—not according to the valuation of the property in the counties—but according to the proportion that the average amount of expenditures for the last five years in each county bears to the expenditure in all the counties. That is to say, the more any county spends on itself the larger becomes its share of the state taxes irrespective of the valuation of the property contained within its boundaries.

The final task is the determination, on the part of the local authorities, of the amount of taxes each individual must pay. In most of the states—except in New England where the town system prevails—the county authorities are given the task of collecting the taxes. The state taxes are certified to the county authorities and very general is the requirement that township, municipal, school district and other taxes regularly levied by properly constituted authorities be also certified to the county authorities. In New England, as has been said, the towns act independently in the matter. In both cases, however, the local authorities compute the rate or rates of taxation that must be levied on the property of each taxpayer, and the amounts computed to be due are then set down in a "tax roll" or "tax book" or "tax duplicate" opposite each individual's name. When the roll or duplicate is completed, the clerk or the auditor—

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or whomsoever else is assigned to the duty of preparing the roll—then adds his affidavit to the effect that it is honestly and fully prepared and when all this has been done he sends it to the tax collector with a warrant attached directing the collector to collect the taxes as entered in the roll or duplicate. From the time the tax roll is put into the tax collector's hands the taxes become a first lien upon the property assessed. The real collection or the "gathering of the yield" then begins.

Collection: Just as with the assessment, so with the collection of the property tax the local authorities are most in evidence. A majority of the states make the county treasurers the ex-officio collectors in the counties. In some states [1] this duty devolves upon the county sheriff because the collection of a tax is often regarded as in the nature of the execution of a judgment. A few states—Alabama and Georgia for example—have specially appointed collectors in each county. The New England states, with their town systems, depend upon the town collectors, while some of the western states, where the township system is found, depend in like manner upon the township collector in the counties under township organization. Florida and Louisiana have regular state collectors who are looked upon as "state" rather than "county" or "parish" officials. These collectors, then, are charged with the duty of collecting the taxes which according to the assessment rolls or tax books are shown to be due from the various taxpayers of the district.

As a first step in the process the general requirement is that when the tax rolls are put into the hands of the col-

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payers that their taxes are due and that such taxes can be paid at certain times and places. Very often the collector must publish such notice in a newspaper for a prescribed time or he must post a given number of notices at conspicuous places in the town or the county where it can be reasonably supposed that they will come to the attention of the taxpayers. In some states — Colorado for example — notices are sent to the taxpayers by mail. In Wyoming postal-card notices are sent to all taxpayers three days before their taxes become delinquent warning them to pay their taxes before these become delinquent.[1] In one way or another the attempt is thus made to give each taxpayer sufficient notice of his indebtedness to the state in order that he may as expeditiously as possible remove the same by paying his taxes.

All of the states require the taxpayers to come to the tax collector to pay their taxes. A few states [2] do require that the tax collector make a personal demand on those owing for taxes just after such taxes have become delinquent, but as penalties are levied on delinquents, the penalty may be considered as a species of compensation to the state for the additional trouble caused the collector. A majority of the states in which the collection is undertaken by the county officers, require,—for the convenience of taxpayers living at a distance from the county seat—that the collector or his deputy attend for a specified period in each "election precinct" or "justice's district" or similar minor division of the county, to collect the taxes in such district. But in the other states no special arrangement of this kind is found. In the latter, taxpayers must betake themselves to the office of the collector to pay their tax bills.

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The laws of each state prescribe when the taxes are due. As a rule a definite period of time is specified during which the taxes may be paid. These periods are not the same from state to state but vary from about two weeks to two months, and a distinction is frequently made between personalty insecured by real estate, personalty so secured and real estate, in fixing them. In some states, indeed, (California for example) the assessor himself may demand immediate payment of taxes on all personal property insufficiently secured by real estate and may even seize it and sell it for such taxes if necessary. This happens rarely, however, because such property is not extensively reached any way.

As an inducement to taxpayers to pay their taxes early some states allow a rebate or discount on the amount due. Oregon, for instance, allows a rebate of 3% if the taxes are paid about a month before the expiration of the period during which they are considered regularly due.[1] West Virginia allows a rebate of 2½%.[2] Kansas allows a rebate of 5% on half the amount of the taxes if the whole amount is paid when the first half is due.[3] Maryland allows a rebate of 5% or 4% or 3% according as the taxes are paid respectively 3 months, 2 months or 1 month before they become delinquent.[4] In Michigan the rebate is allowed in a different form.[5] Taxes there become delinquent on March 1st. On all taxes that are paid between January 10th and the date of delinquency a collection charge of 4% is levied; but on taxes voluntarily paid before January 10th the collection charge is only 1%. It is also to be noted that a

[1] *Laws of Oregon*, sec. 3106

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considerable number of states [1] allow the property taxes to be paid in two installments, at intervals of about six months, in order that the burden may not weigh too heavily on the taxpayer at any one time.

If the taxes are not paid when they are due they become delinquent and the persons upon whom the legal responsibility of payment rests are known as "delinquents." Usually a very considerable penalty is imposed on delinquents, although, as is to be expected, some states deal less harshly with them than do others. Interest is practically always charged on overdue taxes and in most of the states a penalty is added. These penalties are as a rule in the form of a percentage addition to the taxes. Thus in Ohio and Virginia, for example, a penalty of 5% on the amount due is affixed; in Kentucky such penalty is 6%; in Wyoming, 8%; in a number of states [2] it is 10% while in Iowa, Colorado and Tennessee it amounts to 1% a month. South Dakota levies a penalty of 1% after the first month, 2% after the second month and so on, besides a rate of interest of 1% a month. In South Carolina and Washington the penalty is 15%. In California the penalty is 15% and five months later an additional 5% is charged. In North Dakota a penalty of 5% is charged on delinquent personalty and interest at the rate of 1% a month, while on real estate, the original penalty is 3% and a month later an additional 3% is charged and three months after that an additional 3% and five months after that an additional 5% is added. In some states the interest charged is at a rate so high that it may be considered to contain an appreciable punitive element,[3] whereas in a few of the states mentioned above no

[1] California, Colorado, Indiana, Iowa, Kansas, Nevada, Ohio, Oregon, South Dakota and Washington.

[2] Idaho, Indiana, Minnesota, Montana, Nevada, Nebraska and Oregon.

[3] Kansas, for instance, where the rate is 10%.

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interest is charged in addition to the penalty which is itself considered sufficient. In all of the states, however, after a varying length of time, if the overdue taxes are not paid, the property of the delinquent is seized upon and sold at public auction according to rules prescribed by law.[1]

In the seizure of the property of delinquents, movable property is always taken first but if there should not be enough of that, the real estate of such delinquent is also seized upon and sold. Personalty once sold is practically forever gone but the law always provides for the redemption of real property by the original owner (i. e. by him from whom it was taken) or by any one else having an interest in it. Such redemption must, however, be made within a limited period of two or three years in fairness to the purchaser who then demands that he be given a clear and unobstructed title. At best such redemption is a very costly process for the one who undertakes it. Thus it is seen that although the state often steps in and saves an unfortunate debtor from having all of his property taken by his creditors who may have just claims against him, still, in levying its own charges no consideration is allowed to stand in the way of a full liquidation of such charge when once it has been legally imposed. The state's lien for taxes is always a first lien and therefore one that must be satisfied before all others.

(2) *The Property Tax on Miscellaneous Corporations:*[2]

The property of what we have called miscellaneous cor-

[1] The authorities for each state for the statements made in the above paragraph have not been given, as any one of them may be verified by consulting the code of laws of the state and looking in the index of the same under the head of "Delinquency."

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porations is in every state of the Union taxed in one form or another. The differences that arise from state to state are due to the various kinds of efforts put forth to reach all of the property of a corporation. The departure from the strict theory of the property tax in states like New York was due not to a disbelief in the theory so much as to the inability to reach all the property according to that theory.

The constitutions of some ten states [1] provide that the property of corporations shall be taxed in the same way as that of individuals but in a great majority of the states without such constitutional provisions the property of corporations is nevertheless so taxed. The points of interest that arise in this connection have to do simply with the methods employed in reaching and assessing all such property.

The real estate of corporations is everywhere taxed in the same way as is the real estate of individuals.[2] Corporate real estate is listed to the corporation and is assessed by the local authorities. The valuation of such real estate is equalized in exactly the same way as is the valuation of the real estate of individuals and in all other respects the treatment is practically the same. It is in regard to personalty—tangible and intangible—that the differences arise.

In a few of the states — Colorado and Montana for example—no distinction is made between tangible and intangible property in the process of listing but each corporation is listed as a business unit. The whole plant is considered as a unit and the determination of its value is based upon a consideration of the realty and the personalty and

[1] Alabama, Idaho, Iowa, Kentucky, Mississippi, Nevada, Ohio, South Carolina, Utah and Washington.

[2] We are not considering here the special corporations.

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all the franchise privileges. Then in other of the states [1] the realty and personalty of the corporation are both locally assessed and no special effort is made to reach the intangible property. At least two-thirds of the states do, however, have special provisions for reaching all intangible property.

This special provision for reaching intangible property has for the most part taken the form of a tax on capital stock. This tax is assessed in various ways. In all cases the valuation is based on a statement made to the local or state assessing officers, giving under oath detailed information concerning the property, capital stock, earnings, etc., of each corporation. Such valuation is more commonly made by the local assessor although in some half dozen of the states the duty devolves upon the state officers.[2] From such statements the assessing authorities determine the value of the entire capital stock of the plant, although they are, of course, given the right to examine the books, etc., of the corporation. From the aggregate value so determined there is deducted the assessed value of the realty and tangible personalty and such indebtedness as may be allowed, although in some states [3] the assessed value of realty alone is deducted and such tangible personal property as there may be is then not subject to separate taxation. Here again the assessing authority need not accept the valuation as given in the statement. Sometimes the law lays down a rule as to what factors the assessor shall take into account in deter-

[1] Arkansas, California, Idaho, Kentucky, Louisiana, Missouri and Washington.

[2] Illinois, Maryland, Massachusetts, North Carolina, Pennsylvania, and Texas. In Illinois the assessing authority is the State Board of Equalization; in Indiana, Maryland and Massachusetts, the state tax commissioners.

[3] Maryland, Massachusetts, Rhode Island, Vermont, West Virginia, and maybe a few others.

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mining the valuation but it always places upon him the duty of making such a determination himself.

The assessment thus made is subject to review. In the states where there is the assessment by the local authorities there is the usual review by the local boards of equalization. In the states where the assessment is by state officers certain special means of appeal are provided for or otherwise the corporations are allowed to go to the courts. In Maryland for example appeal may be taken to the comptroller and treasurer. If they are both of one opinion the assessment that they make stands but if either agrees with the tax commissioner (the original assessing authority) the latter's assessment stands.[1] In Massachusetts appeal may be made to a Board of Appeal—and so on.

The rate of the tax is also determined in most cases as is the rate on the property of individuals. In Massachusetts, however, the rate is determined by the average rate of all taxation—state and local—upon the assessed value of all the property in the state. In New York, the rate is fixed by law and varies according as the dividends are above or below 6%.[2] In Pennsylvania also the earnings principle is employed. As a general thing, however, the intangible personalty, after it has once been assessed is dealt with as any other kind of property and bears its proportion of the various state and local rates.

The capital stock so assessed is, in most cases, assessed directly to the corporation although in some states [3] the assessment is made against the stockholders while the corporation pays all or a part of the tax. It seems to be the custom in some of the New England states to make the re-

[1] *Laws of Maryland*, art. 81, sec. 144.

[2] *Finance Law*, ch. 24, art. ix, sec. 182.

[3] Alabama, Iowa, New Hampshire, Rhode Island, Maryland, Maine, and Vermont.

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sident shareholders responsible for the taxes on their holdings while the corporation itself is held responsible for the taxes on the shares of non-residents.[1] In the states where the corporations pay the taxes for the shareholders a full list of the shareholders must be made out for the assessing authorities. The corporation after paying the taxes may deduct the amount of the same from the dividends and it has also a lien on the shares of stock to the amount of such taxes.

The taxes are payable in some states to the local collecting authorities and in others like New York and Massachusetts they are paid directly into the state treasury. Where they are paid to the local authorities the periods of payment etc. conform generally to those fixed for the taxes on other property, and where they are paid directly into the state treasury the time of payment is specially fixed by law. Interest and penalties for delinquency are also provided. Money fines are levied if the required statements are not seasonably submitted, the corporation is fined for delinquency in payment of taxes and interest is charged on taxes overdue. Shares of stock and the property of corporations may also be seized and sold if the tax is not ultimately paid, just as the property of individuals is dealt with under similar circumstances.

(3) *The Tax on the Property of Certain Special Corporations:*

Banks and Banking Companies: The property of banks has been almost uniformly regarded with peculiar jealousy and special efforts have been made to insure the listing of all bank property for taxation. The methods employed in assessing bank property are exceptionally uniform throughout the states as a result of certain United States Supreme

[1] Maine, New Hampshire, Rhode Island, and Vermont.

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Court decisions and the general success of the scheme employed. The shares of banks are one of the few kinds of personal property that bear their full burden of taxation.

The real estate of the banks is assessed in all respects as is the real estate of individuals so that no particular attention need be given to such assessment.

The shares of stock of incorporated banks,—state and national—are assessed almost uniformly as the personal property of the owners at the place where the bank is located. For purposes of assessment the president or the cashier of the bank must make out a sworn statement of the capital stock of the company, par and market value of same, surplus and undivided profits, property, etc. and a full list of the stockholders with their residences, holdings, etc. This statement is delivered to the local assessor, whose duty it is then to determine the assessable value of such shares. He is given the power to examine the bank's books, subpoena witnesses, etc. in his endeavor to get at all the facts that are relevant to such valuation. Sometimes the law declares what factors are to be considered in the determination of such assessable value. In New York, for instance, the value of the capital is considered to be made up of the amount of the capital stock, the surplus and the undivided profits. When the valuation of the entire capital is made the assessed value of the bank's realty is deducted, and the remainder divided by the number of shares gives the value at which each share is assessed. In states where deductions for debt are allowed to be made from the assessed value of "moneyed capital" the same allowance is made in regard to bank shares; that is to say, an individual shareholder in such states may have deductions made from the assessed value of his bank holdings for such amount of his bona-fide indebtedness as the laws of his state may provide in the case of other moneyed capital.

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The right to appeal the assessment so made is usually provided. Such appeal lies in most cases to the local board of equalization or to the courts. In Ohio, however, the Governor, Auditor and Attorney General form a special board of appeal.[1]

Against the value assessed the regular taxes are levied and the bank is responsible for the payment of the same to the local authorities. For the taxes so paid, however, the bank has a lien against the stock itself and it may deduct the amount of such taxes from the dividends.

The general plan outlined above for the assessment of banks is by far the most common method employed. There are, of course, certain variations from this general method, a few of which may be referred to. In Iowa, for instance, the shares of state banks and trust companies instead of being assessed to the shareholders are assessed to the corporation itself.[2] In Kentucky, again, the assessment of the shares of national banks is by state officers—Auditor, Treasurer and Secretary of State—and the state tax is paid directly into the state treasury.[3] In Maryland, Massachusetts, North Carolina and Pennsylvania also the taxes for the state are paid directly into the state treasury. Then in the New England states [4] and one or two others, the bank, instead of paying the tax on the shares of all the stockholders, pays the tax on the shares of non-residents only. Each bank must send to the town or other local assessors a statement showing the number of shareholders residing in such town or other local district and the amount of their holdings, for the taxes upon which such residents

[1] *Laws of Ohio*, sec. 2808. [2] *Laws of Iowa*, sec. 1322.

[3] *Laws of Kentucky*, 1904—"Act for providing for the assessment of the shares of capital of national banks."

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are then held personally liable. Finally it may be said that in New York there is a fixed rate of 1% on the assessed value of the shares.[1]

Penalties for delinquency and interest on the taxes overdue are of course uniformly provided and the payment of the taxes due can be enforced by the seizure and sale of the stock itself. Considered as a whole, however, there is probably less friction and less trouble in the collection of these taxes than in the collection of any other portion of the property tax.

Quasi-Public Corporations: The growth of the public service corporation introduced another difficulty in the operation of the general property tax. These quasi-public organizations dependent upon public franchises or privileges of one kind or another, which as population advanced became always more and more valuable, had early to be subjected to special methods of inquisition and valuation in order that they might bear at least an approximately just share of the public burden.

Various attempts were made with this end in view. In general the process was one of centralization in financial administration — a centralization that seems destined to continue in its various phases as the great corporations of all kinds widen ever more their operations. The wonderful centralization that has been going on in all our political life can, indeed, find a very large measure of its explanation in the industrial expansion that has characterized our history since the Civil War. Foremost in this industrial expansion come the great railroads and other quasi-public corporations which have leaped beyond the mere boundaries of

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barriers and the prospects of trade. It is because of their pre-eminent position in this field of industrial expansion that the tendency toward centralized control in financial and other matters has been most marked in connection with such quasi-public corporations and that is why it becomes of more than ordinary interest to consider them at this place.

In a large majority of the states these corporations that we have in mind — namely the railroad, telegraph, telephone, sleeping-car, express, tank-line, fast-freight, pipe-line, etc., corporations—are still subject to the general property tax. Various modifications of, and additions to, the theory of the general property tax can, of course, be found from state to state;—in New York for instance the tax is frankly abandoned for state purposes and a tax based upon earnings is substituted—but these modifications interest us here only in a general way. Our purpose at this point is to give some account of the means employed in those states where the property tax is still in vogue, for arriving at a just estimate of the value of the property upon which these various corporations should be taxed.

Assessment: The assessment of such corporate property is generally entrusted to a single state board. As in Iowa, for example, the Executive Council is the assessing body for railways, as well as telegraph, telephone, etc. companies, so in most of the other states similar boards are entrusted with the same powers. Of course, there are various departures from this rule. In Ohio, for example, the assessment of the property of each railroad company is entrusted to a board composed of the auditors of the counties through which such company's lines extend,[1] while the other corporations are assessed by a State Board of Ap-

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Treasurer and Attorney General.[1] In general however the rule holds good and no attempt will be made to point out the exceptions.

This board is, in about half the states, the State Board of Equalization. In a few others—Tennessee for example—it is composed of the railway commissioners. In Vermont on the other hand, the Tax Commissioner is the assessing authority.[2] In Virginia the Corporation Commission [3] and in West Virginia the Board of Public Works acts in the capacity referred to;[4] in Wisconsin the Tax Commissioner and the first and second assistants.[5] In Georgia the Comptroller General on the statement of the local authorities determines the assessment upon which the state tax is levied.[6] In Florida the Comptroller acts with the advice and consent of the Treasurer and the Attorney General.[7] In Kansas the Lieutenant-Governor, Secretary of State, Treasurer, Auditor and Attorney General form a State Board of Assessors.[8] In Kentucky the assessment is made by the Railroad Commission.[9] In Texas the assessing board is composed of the Comptroller, Secretary of State and Tax Commissioner.[10] In these various ways then, is the assessing authority, for railroads and similar corporations, constituted.

It must be noted, however, that in a few states [11] the as-

[1] *Supra*, sec. 2778.
[2] *Laws of Vermont*, sec. 547 *et seq.*
[3] See Constitution of Virginia.
[4] *Laws of West Virginia*, 1905, ch. 35.
[5] *Laws of Wisconsin*, 1903, ch. 315.
[6] *Laws of Georgia*, sec. 779 *et seq.*
[7] *Laws of Florida*, title 6, ch. 1, sec. 376.
[8] *Laws of Kansas*, sec. 7551 *et seq.*

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sessment is chiefly in the hands of the local authorities, while in such states as have done away with the general property tax on these corporations for state purposes, the realty and tangible personalty is nevertheless assessable by the local authorities for local purposes. In some states also the realty and tangible personal property is locally assessed while "franchise" or "capital stock" is assessed by the state authorities. Distinctions of this kind are however too numerous to warrant our considering them in detail here.

In all cases there is required as the first step in the process of valuation a sworn statement from a responsible officer of the company. These statements vary somewhat according to the particular kind of business to which they refer (i. e. railroad, telegraph, express, etc.) and they are more or less comprehensive and detailed as the laws of the several states and the regulations of the assessing authorities may determine. The uniform aim is to get an adequate collection of facts according to which the value of the property, or the base upon which the tax is to be levied, may be determined.

The details of these statements as was stated above, differ according to the character of the business but as an example that may be considered more or less typical of all of them, there can be given an outline of the statement required by the laws of Iowa to be made out for the Executive Council by railroad companies.[1] Iowa was chosen purely at random. 1. Whole number of miles of railway owned, operated or leased, within and without the state. 2. Whole number of miles owned, etc., within the state including double and side tracks,—mileage of main lines and branch lines to be

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track in each county. (For telegraph and telephone companies these points would have to do with wire mileage and the number of poles, etc., while for sleeping-car, express, etc., companies, car-mileage or miles of line over which the companies operate would be required). 3. Detailed statements showing real estate in each county including right-of-way, roadbed, etc. and estimated value thereof. 4. A full statement of the cost and actual present value of all buildings of every description owned by said railway company not otherwise assessed. 5. Total number of ties per mile within the state. 6. Weight of rails per yard in main line, double tracks and side tracks. 7. Number of miles of telegraph lines owned and used within the state. 8. Total number of engines; passenger, freight, etc., cars, and number of each class in the state, each class being valued separately. 9. Any and all other movable property classified as the Executive Council may determine. 10. Gross earnings of entire road and gross earnings in state. 11. Operating expenses of entire road and operating expenses in state. 12. Net earnings of entire road and net earnings in state.[1] Usually also, a detailed statement of the financial organization of the company is required—the amount of the capital stock, the number of shares, a statement of dividends declared for specified periods in the past, the par and market value of the shares, the highest price paid for shares during the year past and also the lowest price in the market operations, a detailed statement of the bonded indebtedness, etc. Very often also the law explains carefully what the various subdivisions shall contain. The railways, for example, are fond of including improvements in operating expenses, so that in a considerable number of states the law

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at least what may not be so considered.[1] These are, however, some of the finer points that cannot be taken up within the limits of this treatise.

These statements made under oath by a responsible officer of the company concerned constitute, then, the basis upon which the valuation of the company's property is made. In no case, however, need the assessing authority limit itself to this statement. Just as the local assessor may interrogate and examine the individual so the authority assessing the property of these corporations may examine their books, subpoena officers and witnesses and thus attempt to discover for itself the various facts requisite for a just estimate of their property.

The factors to be considered in such valuation sometimes are and sometimes are not prescribed. In some states the assessing authorities are allowed to determine for themselves the principles according to which the valuation is to be made while in others the process of determining the valuation is set down in the law or emphasis is at least laid upon certain considerations that from the standpoint of the law are especially important. In Kansas for instance the state board may assess the various properties "as it deems just," [2] while a few examples—having to do mostly with railroad property—may be given to illustrate the opposite tendency. In Iowa the law specifically directs that the gross earnings per mile are to be considered in assessing value.[3] In North Carolina the law directs that the Corporation Commission shall first determine the value of the tangible property of each division or branch of railway and directs further that, in this connection, the cost of replace-

[1] See, for example, *Laws of Iowa*, sec. 1335.

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ment and depreciation are to be considered. It directs the Commission in the next place to assess the value of the franchise—such value to be determined by due consideration of gross earnings as compared with the operating expenses and particularly by consideration of the value placed upon the whole property by the public (the value of the physical property being deducted) as evidenced by the market value of the capital stock, certificates of indebtedness, etc., the value of which is based upon earning capacity. The aggregate value of the tangible property and the franchise is then to be the true value for ad-valorem taxation.[1] In South Carolina the Board is directed to determine the true cash value of the whole property first and the rule is laid down that the market or actual value of the entire capital stock together with the aggregate amount of mortgages or liens shall be deemed the true cash value.[2] Texas has a similar provision.[3]

The most interesting point in this connection, however, depends upon the fact that most of these corporations are corporations engaged in interstate trade. The various lines of railway, telegraph, etc., companies go beyond the bounds of a single state and consequently they are liable for taxation in any particular state only on such part of their property as can be rightly considered to be within such state. This introduces a host of difficulties and throws upon the assessing authority in each state the nice task of determining what share of the property of each of such corporations is to be taxed in the state concerned.

Here it becomes necessary to distinguish more particularly between the different classes of corporations owing to the differences in the nature of their businesses.

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For railways the most common principle employed in apportioning the value of the entire property as estimated by the assessing authority is that of mileage. This principle is based on the theory that, considering the railroad as an organized whole, the value mile for mile is about the same. An average value per mile is thus determined and such average multiplied by the number of miles of line in the state gives the valuation that is made the basis of the assessment. In some cases allowance is made for especially good terminal facilities or for considerations of similar import in other states, but this is not the general practice. Whether the average value per mile is determined or not it may be said that, in regard to railroads, the proportion of the value of any corporation's property taxable in a particular state is determined by the ratio of the mileage of the company's lines in such state to the entire mileage within and without the state. The very general practice is to include in such apportionment only such property as is used in the railway business itself—property that would in any event be considered an integral part of the business—while other property, owned by the railway company but not directly used in connection with its business, is locally assessed.

The property of telephone and telegraph companies is similarly apportioned according to wire mileage in each state. Either the average value of the property per mile of wire is determined and the mileage in the state used as a multiplier or an apportionment of the value of the property as a whole based on the proportion of total wire mileage in the state is made, to determine what amount of the company's property is taxable in any particular state. In a few

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assessed and in a few other states [1] the tax on the property of these companies takes the form of an arbitrary rate per mile of wire or per instrument, in which case, of course, the theory of the property tax is departed from and an apportionment of the value of the property as a whole is obviously unnecessary.

In the apportionment of the valuation of the property of sleeping-car, express, fast-freight lines and similar companies somewhat different principles are employed.

The most common method of apportioning the property of sleeping-car companies is on the basis of the mileage of lines over which a company operates within and without the state. That is to say, the ratio of the mileage over which the company operates within a state to the entire mileage over which the company operates determines the proportion of its property which is taxable in such state. This method is employed in some seventeen states.[2] In some of these states, however, all realty and tangible personalty is locally assessed and the apportionment refers only to the assessed value of the "franchise" or the "capital stock" in all of which cases allowance is made of course for the property locally assessed.

Another method employed in apportioning such valuation is based on the mileage actually made by the company's cars rather than the miles of line over which the company operates. In Missouri,[3] for example, sleeping-car and similar companies have to make the usual annual report, including a statement of the mileage made by their cars in

[1] California, Connecticut, Mississippi and Texas.

[2] Arkansas, Georgia, Indiana, Kentucky, Colorado, Louisiana, Massachusetts, Michigan, North Carolina, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Texas, Virginia, Wisconsin and Wyoming.

[3] *Laws of Missouri*, sec. 9345.

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the state and the average mileage per day of the cars of the particular class covered by the statement. The railroad companies must also furnish a mileage statement for whatever number of such cars they may have used. The state board then takes the average mileage per day of cars of each class and divides the total mileage of the cars of each class by such average mileage and the quotient represents the number of the cars of each class that are estimated to have been necessary to make the total mileage and upon such number of cars is the assessment based.[1] In Nebraska on the other hand, the method employed is based on monthly averages.[2] The railway companies must in the first instance report the number of sleeping, etc. cars used during each month of the year for which the statement is made and also the number of miles each month such cars have been run on such railway and the total mileage each car made within and without the state. The law further provides that the average number of such cars used by such railway corporation each month and the assessed value of said cars shall bear the same proportion to the entire value thereof that the monthly average number of miles that the cars have been run in the state shall bear to the monthly average number of miles that said cars have been run within and without the state.

In most of the other states not already referred to the property of the sleeping-car and similar companies is assessed by the local authorities although there are in addition privilege taxes, license taxes or taxes on gross receipts. A word will be said about these taxes later, so that further consideration of them may be waived at this point.

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about half the states by the state authorities,[1] although in some of these states—just as in the case of sleeping, etc. car companies,—the real estate and the tangible personalty may be locally assessed. Where there is assessment of the whole or a part of the property by the state authorities the basis of the apportionment is uniformly the mileage of the lines over which a company operates. This is obviously the only practicable method since the express companies do a large part of their business in the cars owned by the railway companies. In the other half of the states there is, as has been said, a local assessment of real estate and tangible personalty while the state levies simply an arbitrary license or privilege tax or a percentage tax on gross receipts.

Most states assess the property of fast-freight and similar companies in about the same way as they do express companies. The apportionment of the valuation when the assessment is made by the state authorities, is for the most part according to mileage operated over within and without the state. In Colorado[2] and Iowa,[3] however, the apportionment is based simply on the mileage actually made by the cars of a company, within and without the state. In Kansas each company's statement — which is supplemented by one from the railroads—must show the aggregate number of car-days made by its cars on the several lines of railroad in the state during the year which the statement covers, and also the total number of cars owned. The Board of Railway Assessors divides the total number of car-days so ascertained by the number of days in the preceding year and the quotient so obtained constitutes the

[1] About the same states that were referred to in connection with sleeping-car companies.

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number of cars on which the company is assessed. A car-day represents each day that a car is used or operated in the state. In other words, the average number of cars used in the state during the preceding year is, in Kansas, made the basis of the assessment and the valuation represents the average cash value of such average number of cars for each class.[1] The same system is in vogue in Michigan.[2] In Wyoming the assessment is based on the average number of cars used as determined by the average mileage per day of the cars of each class compared with the total mileage for the year—just as in Missouri the assessment of sleeping-car companies is made.[3]

In the other states, not already referred to in this connection, there is simply the local assessment of the property of these corporations by the local authorities,[4] or there are in addition to such local assessments, "privilege" taxes or taxes based on receipts and earnings.[5]

Equalization: In determining the valuation of the property of these various classes of quasi-public corporations they are as a rule given the right to be heard. Each company is given an opportunity to explain its statement to the assessing authority and to make whatever plea in connection therewith that it sees fit. In a good many cases when the valuation has been once fixed such valuation is final although in some states a rehearing is specifically provided for.[6] In Colorado after the valuation has been fixed a

[1] *Laws of Kansas*, 1905, ch. 500.

[2] *Laws of Michigan*, 1905, no. 282.

[3] *Laws of Wyoming*, 1901, ch. 81.

[4] Montana, Nevada, Washington, Idaho, California, South Dakota, Tennessee, Connecticut and New Hampshire.

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company feeling itself aggrieved may, within a prescribed time, file a petition of complaint with the Governor.[1] The Governor calls a meeting of the State Board and the complaints are heard. In Kentucky, Mississippi and Montana also the companies may appeal for a rehearing and in Wisconsin and Wyoming a similar right of review is provided. In other states an action at law is provided for.[2] In Tennessee the Governor, Treasurer and Secretary of State form a special board of equalization for railway, telegraph and telephone property.[3] Where there is simply the local assessment the methods of review are those employed in the case of other property. In Ohio, however, where railways are assessed by boards composed of the county auditors, as was explained above, there is a special board of equalization composed of the Auditor of State, Treasurer, and Commissioner of Railroads and Telegraph.[4] When the valuation has been finally determined the next task that presents itself has to do with fixing the rate to be levied on such valuation.

Determination of the Tax: The methods employed in calculating the rate are various. The most common method is to apportion the entire valuation, as fixed by the Board, among the smaller political divisions in proportion to mileage of lines for railway, telegraph and telephone companies and in proportion to mileage operated upon for the other companies. In such cases the local authorities are charged with the duty of computing the various taxes due on such property in exactly the same way as they do on the property

[1] *Laws of Colorado*, Supplement, 1905, sec. 3899.

[2] Georgia, Louisiana, New Hampshire, New Jersey, and West Virginia.

[3] *Laws of Tennessee*, Supp. 1897-1903, sec. 824-859.

[4] *Laws of Ohio*, sec. 2871.

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of individuals. Similarly where there is at the outset only a local assessment the local authorities compute the various amounts due. But in some states where the assessment of all or a part of the property of these corporations is made by the state authorities, these same authorities compute the taxes to be levied on such property for state purposes.[1] Ordinarily the rate is simply the general state rate on all property while the local rates are separately levied, but in some four of the states [2] the attempt is made to levy the average rate of all taxes levied on other property throughout the state. In Michigan, for instance, the proper local authorities must send in to the state authorities full records of the assessed valuation of all property and of all taxes levied upon such property within their respective jurisdictions. These are then totaled for the whole state and the average rate is determined by dividing the total taxes by the total valuation. In Michigan this tax is in lieu of all other state and local taxes except special assessments. In the other three states referred to a similar determination is made.[3]

Collection: However then the rate be determined—by the state or by the local authorities — the amount chargeable to each company is calculated. This amount is then certified by the proper authority to the company charged with the tax and within the time prescribed by law the tax must

[1] California, Florida, Georgia, Massachusetts, Michigan, New Hampshire, North Carolina, Tennessee, Virginia, West Virginia and Wisconsin for the property of railroads and most of the other quasi-public corporations.

Missouri and Ohio for that of car companies and Nebraska for that

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be paid. And without going into detail it may be said that just as in the case of individuals penalties are inflicted for delinquency and interest is charged, so with these big corporations heavy penalties are levied upon delinquents, interest is charged on the taxes overdue and their property may be seized and sold if the taxes are not ultimately paid.

(4) *Critical Remarks:*

It would seem hardly necessary in this place to say much by way of criticism of the general property tax as employed in our states. This tax has been so generally criticized by writers on Finance that the merest tyro in the subject in this country is familiar with most of its defects. To some extent, therefore, our efforts here may constitute a work of supererogation but they will at least serve the purpose of emphasizing some of the criticisms from the point of view of this chapter.

Here we are not concerned with the theory of the property tax although that itself is unsound. We are concerned only with the realization of this theory in practice. In other words we have to deal only with the means employed for collecting the tax. But in this connection it must be said that the weightiest and most numerous criticisms that have been brought against the property tax relate to this very question of administration.

The most comprehensive and thorough criticism of the general property tax is to be found in Professor E. R. A. Seligman's "Essays in Taxation." As a matter of fact there is nothing left for anybody else to do except to add more and later illustrations to clinch what is already an invincible argument. Therefore it is frankly admitted that

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the administration of the general property tax is saturated with error and injustice.

The first great criticism that must be brought against the administration of the tax is that under our political conditions it is practically impossible to assess the tax uniformly. The law requires that all property be assessed at "fair cash value" or "market value." It is sometimes provided that only a percentage of such value be taken as the assessed valuation, but as this applies uniformly throughout the state that fact itself has no particular significance. The cash or market value must in any case be first determined. In all cases the local assessor is under oath to carry out the provisions of the law in the process of valuation and his general oath is usually buttressed by special oaths before and after the actual process of valuation is undertaken and completed. But here, right at the outset, the administration fails. The assessors voluntarily or under political compulsion forget and violate their oaths. Partizanship and other causes lead to glaring injustice in the assessment of the property of individuals in the same assessment district and the desire to ingratiate themselves into the favor of their constituents leads the assessors to vie with each other in bringing down the general valuation of their districts as far as possible. As Professor Seligman points out, the "official reports abound with complaints and open confessions that property is assessed all the way from par to one twenty-fifth of the actual value." [1]

The report [2] of the Committee on Double Taxation in Vermont shows that the assessors in the towns frankly ad-

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tice here involved is supposed to be remedied by subsequent equalization, but the further removed from the local districts these tribunals of equalization are the more difficult does it become for them to equalize valuations in a degree even approximating uniformity. In the assessment of railroad and similar property the difficulty is obviated somewhat by having the state assessing boards as was shown above—but it is notorious that such property is not assessed on as high a basis as is other property in general throughout the states. The sinister influence of the corporations has been too strong in the central state boards. It may be said then that the first great canon of just taxation—that requiring a tax to be uniform throughout the area in which it is applied—is violated at the very beginning in the administration of the general property tax.

The second great criticism that must be brought against the administration of the general property tax in the states is that it is not equally assessed on persons liable to the tax. Every state in the Union requires persons in legal possession of taxable property to list the same for taxation. In New York for example there is found the broad requirement that assessors ascertain the names of taxable persons and their property.[1] In Ohio the law requires "every person of full age and sound mind" to list his property.[2] In Indiana the law requires the assessor to call upon each and every person in the township for a list.[3] But here again the assessors generally are forgetful of their oaths and in not a few cases it is impossible for them to carry out the provisions of the law. In the rural districts where population is sparse not many can escape the assessor but in the

[1] *Laws of New York*, ch. 24, art. II, sec. 20.

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cities it is impossible for the assessor to discover all those that are taxable and it is equally impossible for him to call in person on each and every person in his district and require such person to make out a tax list. The result is that great numbers of those who are liable to taxes on personal property escape taxation altogether and the burden of the whole tax comes to be shifted more and more to real estate. Personal property has slipped and is slipping in ever-growing proportion from the tax lists. This is a matter of common knowledge. According to the Report of the New York State Board of Tax Commissioners, although in 1867 realty paid 74.61% of the tax on property while personalty paid 25.29% still, by 1904, real estate paid 90.64% while personalty's share had dwindled steadily to 9.36%.[1] No intelligent person would, however, doubt that in the great Empire State the value of personal property overbalances that of realty at least five or six times. In 1904 in Greater New York, realty was assessed at $4,751,532,826 while personal property was assessed at only $680,866,092.[2] From 1890 to 1902 the assessed value of realty in New York State increased about 57% while that of personalty increased only 43%. For the same period in New Hampshire and Vermont an actual decrease in the assessed value of personalty is shown.[3] In other words the owners of realty and the people who pay the rent are coming to bear an increasing proportion of the property tax while the owners of personalty are to a corresponding degree enabled to evade their share of the tax.

The third great criticism that must be brought against the administration of the general property tax is that some persons are doubly taxed. The best known illustration of

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undoubtedly valuable pieces of property and according to the strict theory of the property tax should be taxed like other property. But this leaves out of account the relations between the borrower and the lender. The lender has always the upper hand. Under threat of refusing to lend his money he may make the borrower agree to assume the tax or if he be prevented by law from such a course of procedure he can nevertheless make the borrower assume the burden by refusing to lend him the money except at a rate of interest that is high enough to reimburse him for the tax—and usually for somewhat more. Thus the borrower is taxed on what he "owes" as well as on what he "owns" while the lender goes scot-free and claims a little reward in addition. Similar, of course, is the taxation of the personal property of the individual where he is not allowed to make a deduction for his just debts, although double taxation arising from this source is, as a matter of fact, not so common because in most of the states deductions for bona-fide indebtedness can be made from the personalty assessment. In the matter of mortgages, however, there is a cruelly large amount of double taxation and this arises out of the attempt to administer the property tax according to its theoretical requirements.

The other great criticisms which must be brought against the administration of the general property tax are essentially outgrowths of the three outlined above and may, therefore, be considered secondary in origin and nature. This by no means implies, however, a secondary importance.

The first of these is that the general property tax as now administered tends to become a regressive tax—that is one whose rate increases as the amount of the base decreases. This is due to the fact, alluded to above, that personal property is slipping always in larger proportions from the tax lists and an increasingly greater proportion

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of the tax comes to be borne by the owners of real estate who are assessed not only on their real estate, but on their personal property as well. Of course this presses hardest on the farmer and the small landholder, almost all of whose property is listed—not because farmers and small landholders are necessarily more honest but because they could not hide their property if they wanted to. Almost everybody in the neighborhood knows how many horses, cattle, plows, wagons, etc. a farmer in any particular community has and so the farmer could hardly make a false list of these things and hope to escape detection. So it seems patent that, even though we admit that some of the farmer's property escapes, not nearly so much of it does so as is the case with the resident of a large city whose wealth is invested largely in corporate securities. Thus if I, a resident of a large city, have in reality $100,000 worth of property but succeed in having it listed, say at $25,000 (which if it is personal property is a generous assessment as things now go), whereas farmer Jones who owns in all $25,000 worth of property cannot succeed in getting his assessed at a valuation below $20,000, and if the general rate of tax is 50 cents on each $100, I pay $125 on my property while farmer Jones pays $100 on his. The actual rate I thus pay per dollar of my property is $.00125 while farmer Jones' actual rate is $.004 on his smaller holding. Thus it can hardly be gainsaid that the property tax as now administered is a regressive tax and that it bears most heavily on those who, comparatively speaking, are least able to pay.

The second criticism that may be spoken of as secondary in nature—although by no means of secondary importance either from a purely financial or from a broader social and

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It does this in the first place because it encourages a man to list only a part of his property. Every property-holder knows that the more property he can prevent from being listed the less will be his tax. Consequently if he has some property of which he is morally sure that the assessor will not be able to trace a clue there is a great temptation for him to neglect putting such property on the list. In the second place there is a great temptation for the property holder to undervalue such property as he does list because the lower the valuation, the smaller will be the tax he will be called upon to pay. Of course the assessor is given the authority to fix the final valuation but he is at a great disadvantage as compared with the owner and he is forced in a greater or less degree to accept the owner's valuation. Real estate cannot be hid or easily undervalued but the extent to which personalty escapes taxation, as shown above, gives some idea of the extent to which the owners of personal property succumb to the temptations here referred to. In the third place the privilege generally accorded of deducting from a taxpayer's personal assessment the amount of his bona-fide indebtedness has been most unconscionably abused. Fictitious debts are easily arranged and skillful schemes of evasion—perhaps not technically illegal—have been devised. Perjury itself is not seldom resorted to. "Swearing off taxes" each fall in New York City is an annual source of newspaper wit and sarcasm. Whole assessments are sometimes wiped out because of deductions for "bona fide" indebtedness. There is thus a triple temptation for the property-holder to evade a part of his taxes. He knows that many, many others are not bearing their just share and he naturally asks himself why he should assume their burden. He knows that if he declares all of his property at its full value the tax he will have to bear will be made up not only of his just share but also of an appreci-

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able share of others who, less scrupulous than he, listed only a part of their property. If he is honest he is thus penalized for the dishonesty of others. Thus cupidity and a natural resentment against being forced to bear the evaded responsibilities of others act as a tremendous incentive against a complete and just valuation of one's property—an incentive which only a few sterling characters can resist, and no tax against which such an indictment must be brought can be consistently justified by anybody with the modern point of view.

We have spoken of the property tax as now administered. It may be supposed that under a different scheme of administration it might work well. But here it must be said that every scheme that human ingenuity can devise has been tried—and has failed. As Professor Ely says, the more you try to improve the system of the general property tax the worse it becomes. We have long since outgrown the stage in our economic career where the tax was either equitable in principle or possible of just application. It is an anachronism which should be relegated to the limbo of the past, where it belongs.

II. *GROSS RECEIPTS AND EARNINGS TAXES:*

As a supplement of or a substitute for the general property tax on quasi-public corporations, there is employed in some of the states, a tax based on receipts and earnings. New York and Pennsylvania both have general corporation tax acts, applying to all corporations, which provide a tax on the actual value of the capital stock. The tax is somewhat progressive in nature in New York according as the

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some cases the tax is an important one—as in Vermont where the tax may be in lieu of the state tax on property and franchise,—while in other cases it is only of slight significance—as in Virginia where the tax serves only to pay the expenses of the railroad commission. In the same way some of the states tax the other quasi-public corporations on the basis of earnings. In Ohio these taxes are known as excise taxes, in Mississippi and some of the other southern states they are called privilege taxes, while in still other states the tax is known simply as a "gross receipts" or a "gross earnings" tax.

Administration of the Tax: In assessing these taxes the methods employed are very similar to those employed in assessing the property tax. The company must in the first instance submit a sworn statement of the amount of its earnings and the authorities then determine the amount upon which the tax is to be levied. There is the usual apportionment of the earnings on the basis of mileage or there is at least such an apportionment of the interstate earnings a proportion of which taken together with the purely intrastate earnings is usually taken as the base of the tax. As a rule, however, the rate of the tax is fixed by law,—whether it be progressive or otherwise,—and the only duty devolving upon the authorities is the determination as to which of the prescribed rates shall apply. In all such cases also the corporations are, as a rule, given an opportunity to be heard—just as is the case in the assessment of corporate property. The certification of the taxes chargeable to each company is similarly made by the proper authorities to the companies concerned and the law also prescribes the period during which such taxes must be paid. Considering then that the differences in the methods of assessing these two kinds of taxes are no greater than they are, it is not

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necessary to refer to the earnings taxes with any greater particularity than has already been done.

Critical Remarks: In discussing the assessment and collection of gross-receipts taxes we are again required to call attention to the fact that we are not called upon to discuss the theory of the tax, although we do not hesitate to say that a tax on gross receipts which leaves out of account the original investment of capital and the expenses of operation is not an equitable tax in principle. But from a purely administrative point of view hardly any other tax is so easily assessed. Whatever the particular system of accounting, the gross receipts of a business must always be determined and it is thus a relatively easy matter for the state to ascertain what is its own just share. The difficulty that is presented is the determination of the proportion of the interstate earnings of the large quasi-public corporations, which should be included in the taxable gross earnings. A mileage proportion is the one that is usually applied. If this is uniformly applied by all the states concerned it is fair enough so far as the corporations paying the tax are concerned. Most of the objections that have been brought against the principle refer to an unequal distribution of advantages among the states themselves. It is contended that on a pure mileage basis of distribution of gross interstate earnings one state gets in reality more than its just share while another state or several others are correspondingly deprived of their just shares. But objections of this nature can never be entirely overcome. The ease with which a proportion of the interstate earnings can be determined on a mileage or similar basis for purposes of state taxation is a strong argument in its favor. Gross-receipts taxes are thus, as a whole, administered with great facility

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tion on gross earnings as a method for taxing railroads comes as close to perfect equity as any system that can be devised." [1]

The tax on net earnings is theoretically the ideal tax but from an administrative point of view it is much more difficult to apply than is a gross-earnings tax. Many and serious questions of capitalization and accounting are involved and these would have to be solved before the tax could be applied with anything like certain justice. The New York Corporation Tax aims somewhat in the direction of a tax on net earnings; still it represents more than such a tax alone. On the whole it may be said that we have not yet developed to the point where a net-earnings tax can be successfully administered in our states.

III. *LICENSE TAXES:*

Although liquor taxes and other license taxes are a source of very considerable revenue to the state and are of corresponding importance in the fiscal system, still the methods employed in levying such charges are relatively simple and will therefore be only cursorily dealt with here.

In the great majority of cases these "license taxes," as they are sometimes called, are certain fixed charges levied by law on specified operations—business or otherwise—or for specified privileges. In such cases the law declares illegal the exercise of a privilege for which a license is demanded, until such license charge be paid. The uniform practice is, therefore, for the person—natural or corporate—desiring such license, to apply to the proper authorities—state or local as the case may be—to show to the satisfaction of such authorities that he has fulfilled all the requirements that the

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cordance with such requirements the charge that the law imposes. There is no careful process of valuation or equalization or determination of the amount to be charged. The law declares what amount is to be charged and the authorities simply withhold the license until the proper amount is paid. Penalties of sufficient stringency are provided for him who, without fulfilling the legal requirements and paying the legal fee, exercises a privilege for which a charge is prescribed and oftentimes a rather elaborate organization may be required for the proper administration of the tax—as is the case with the Excise Tax in New York—nevertheless the essential principles involved, in so far as the mere revenue aspects are concerned, are relatively simple. Therefore it would seem rather unnecessary to devote any further space in a treatise having to do simply with fiscal method, to a branch of the states' fiscal systems where the purely financial operations are, comparatively, so simple.

IV. *INHERITANCE TAXES:*

Owing to the peculiar nature of inheritance taxes and to the increasing importance to which, without doubt, they will attain, it is considered advisable to give in this place as briefly as possible an account of the methods employed in their administration. From a financial point of view they are not yet of very great importance although in Illinois for the four years 1898-1902 the return from the Inheritance Tax amounted to 7.45% of the total revenue of the state and in New York for the three years 1899-1901 the return from this source amounted to 12.01% of the state's revenue.[1] The rapid development of these taxes in the past few years points indubitably to the conclusion that

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Two writers, Mr. Solomon Huebner and Mr. H. A. Millis, have given in the Quarterly Journal of Economics [1] such a complete account of the development and the present state of the inheritance tax in our commonwealths that it would be useless to attempt to consider here anything further than those aspects with which we are particularly concerned. Neither of these writers touches upon the methods employed in assessing and collecting the tax, and as this is the phase of the situation that interests us here a little space will be devoted to it.[2]

Property Liable: The base of the Inheritance Tax is the property transferred by will, etc., to one or more beneficiaries. Just what heirs and beneficiaries are liable to taxes of this kind is determined by the laws of each state. The property which can be held liable for such taxes is only such as comes in some way under the jurisdiction of the state levying the tax, but in almost all of the twenty-six states having inheritance-tax laws, now actively in force, all the property that does come under the jurisdiction of the state is held liable to inheritance taxes. In Louisiana the theory of the law is that one which is sometimes given to justify inheritance taxes, namely, that such taxes recompense the state to some degree for the taxes on property that were evaded before the death of the devisor. This theory is consistently applied in Louisiana because the laws provide that when it can be proved to the satisfaction of the Judge of Probate that any property in question has borne its "just share of taxes" prior to the time of donation or

[1] Volumes 18 and 19.

[2] It may be added, however, that since the publication of Mr. Millis's article South Dakota has adopted an inheritance tax law, while that of Tennessee was declared unconstitutional by the Supreme Court of the State.

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inheritance, no inheritance tax shall be charged against such property.[1] In Vermont a deduction is allowed to be made to the amount of inheritance taxes paid in other states,[2] but in the rest of the states where the tax is levied it is probable that the estate of a non-resident, situated within any particular state, would be subjected in some measure to double taxation. It is almost uniformly provided also, that a bequest to an administrator, executor, etc., in excess of what is determined by the court exercising probate jurisdiction to be a reasonable and just commission, shall be liable to the tax to the extent of such excess. In all respects, indeed, it is for the probate court to determine what part of the estate is liable to the tax and what amount each beneficiary must pay.

The appraisement of the estate is not, however, as a rule directly undertaken by the probate court itself. One or more competent and disinterested persons are appointed by the court to appraise the estate. The number of appraisers so appointed varies somewhat between the states. In some states only one may be appointed, in other states two, in still others three, while in still others there may be "one or more."[3] As a rule, also, appraisers are appointed for each estate or whenever the probate judge may think it necessary, but in Utah three appraisers are annually appointed in each county.[4] The appraisers proceed under the instructions of the court although in some states the law lays down certain general rules which require the appraisers to give notice to all persons interested of the time and place

[1] *Laws of 1904*, act 45. [2] *Laws of 1904*, no. 20, sec. 3.

[3] In California, Colorado, New Jersey, New York, Pennsylvania, South Dakota, Wisconsin and Wyoming a single appraiser is appointed; in

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of hearing and also certain special rules governing the appraisement of real estate, etc. The appraisement when finally made is reported to the court in the form of a written statement and a duplicate of such statement must in some cases be sent to a designated state officer in order that the state's interest may be looked after.

The valuation as reported by the authorized appraiser is not necessarily final. The judge of the probate court can, as a rule, of his own motion set aside an appraisement and he may hear appeals that may be made by any interested party—including an authorized representative of the state—and the appeals may even be carried to the higher courts.[1] In Vermont the administrator or the executor, etc., may agree with the state tax commissioner concerning the valuation of an estate but such an agreement may be set aside by either the probate court or the state treasurer.[2] In all cases the aim is, of course, to deal justly with the heirs, but to see also that the state's interests are adequately protected. When the matter of the appraisement has been finally settled the court determines the amount of the taxes due.

Collection: The requirements relative to the time when such taxes are due and payable vary somewhat among the states. In Arkansas they are due and payable within one year after the death of the devisor.[3] In California they are due at the death of the devisor,[4] in Massachusetts within two years after the executor gives bond[5]—and so on. Usually, however, some provision is made that if the taxes are paid before a specified time a generous discount is allowed, while if they are not paid before the expiration of the allotted period a considerable interest charge is levied.

[1] Supreme Court of the State in Washington.

[2] *Vermont Laws of 1904, no. 39.* [3] *Acts of 1901, ch. clvi, sec. 4.*

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The common rate of discount allowed for prompt payment is 5%. The period during which such a discount is allowed varies, however, from three months in Pennsylvania to one year in South Dakota and Wisconsin.

The rates of interest charged also vary considerably. In some states as in New York and Ohio the rate is 6%, in others—Minnesota for example—7%, in others—Oregon and Utah for example—8%, in Arkansas 9%, in New Jersey and Wisconsin 10% and in Pennsylvania 12%. In most cases it is provided that when litigation or similar unavoidable causes delay the payment of the tax a smaller rate of interest be charged—as a rule, 6%. That is to say, that in such cases no punitive charge is levied, but only such a charge as suffices to compensate the state for a real loss. In Pennsylvania it is provided that if the property does not earn as much as 6% even a smaller rate will be acceptable to the state.[1]

In nearly all cases the executor or administrator is held personally liable for the tax. If the estate be money he is authorized to deduct the amount of the tax, and if it be some other kind of property he may collect the tax from the heir. In no case is he obliged to turn over any legacy specific or otherwise to any heir until the tax is paid. Furthermore he is authorized to sell a part of the property to pay the tax—should that be necessary—just as he may be authorized by law to sell some of the property to pay the testator's debts. The primary responsibility for the payment of the tax rests, then, upon the executor or the administrator.

The tax so charged is payable either to the county or

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county treasurer that the tax must be paid. In Louisiana payment is made to the collector of the "Parish," in Maryland and Pennsylvania to the Register of Wills, and in a considerable number of states directly to the state treasurer.[1] Where the payment is made to the county treasurer the executor must demand duplicate receipts, one of which he must send to the proper state officer—usually the chief auditing officer—who stamps it with his seal and who attaches to it his signature. Only then is such receipt accepted by the probate court in the settlement of the executor's or the administrator's accounts. In practically the same way, when the payment is made to the state treasurer, the treasurer's receipt cannot be presented as a voucher in the settlement of the executor's accounts until it has been countersigned by the auditor. This is done in order that a proper charge may be made against the county authorities or against the state treasurer for the amounts that are due to the state. The taxes paid to the county authorities are then paid over to the state treasurer either at the regular settlement of the county treasurer with the state authorities or at a special time as the law may provide.

Enforcement of Payment: A word may be added about the enforcement of the payment of the tax in such cases where it is due and where payment has not been made. In all cases where the county treasurer or other officer believes that a tax is due and payment has not been made, he notifies the district attorney of the proper county of the facts of the case, and the district attorney upon investigation brings legal action to enforce the payment. The Judge of Probate may also cite the persons interested to appear before him and show cause why they should not be compelled to

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pay the taxes chargeable against them. It is also usually provided that registers of wills, judges of probate and similar officers report to the county and state authorities all estates that are liable to the tax so that no estate may evade the payment of the same. In conclusion, however, it may be said that owing to the many legal requirements concerning the administration of estates the enforcement of the inheritance-tax laws is not a matter of great difficulty.

V. *OTHER SPECIAL KINDS OF TAXES:*

In the preceding survey we have been unable to take into account more or less special taxes that are found in only one or a few states. Nor can we hope to do so here because of the limitations that we set out to observe. But because the State of New York—the great Empire State—has advanced farthest in its financial development and has realized more fully than any other state the ideal of the segregation of the sources of state and local revenue, a word or two will be said about two rather highly specialized taxes that characterize the fiscal system of that state. These taxes are the Stock Transfer and the Mortgage Tax.

The Stock Transfer Tax: This tax was adopted in 1905.[1] A tax of two cents is levied on each one hundred dollars of the face value of all stocks transferred—however such transfer be effected. It does not apply to the deposit of stock as collateral security, but only to stock actually sold. The tax is collected by means of the sale of adhesive stamps which must be placed to the proper amount on the certificate or other evidence of the sale of the stock. These stamps are prepared by the Comptroller and he provides for their

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has power to examine the books of corporations and persons and if the tax has not been paid he may bring action in court. The maximum penalty which can be levied for failure to pay the tax is $1000 fine and six months' imprisonment. Furthermore it is provided that when the tax is not paid the transfer of stock is not legal and no action in connection therewith can be brought.[1]

The Mortgage Tax: Most states tax mortgages as they do other property but in New York the mortgage tax is simply a recording tax. As originally adopted in 1905 the tax was an annual tax of 50 cents on each $100 or major fraction thereof of the value of the mortgage but the real estate interests proved to be strong enough to have the act amended in 1906 so that as the law now stands the tax has to be paid only once.

The tax is levied on mortgages on real property in the state and such mortgages are exempt from local taxation. Payment of the tax is made to the recording officer of the county where the real estate to which the mortgage is attached, is situated. If such real estate is situated in more than one county, apportionment of the amount to be paid in each county is made by the State Board of Tax Commissioners on the basis of the relative assessed valuation of the real estate concerned. The payment of the tax is easily enforced because the recording officer simply refuses to record a mortgage until the tax is paid and no legal action of any kind can be taken in connection with a mortgage upon which the tax has not been paid.[2]

The theory of these taxes does not concern us here and they are still too new to allow any sound judgment as to

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the efficiency of the administrative schemes adopted for their collection. Still no really new administrative principles are involved in either case and there seems to be no reason for expecting any serious difficulties.

Part II. Centralization of Revenue

The state's revenue collected by sundry officials scattered through the state must in some way be brought under the direct control of those officers of the state government who are charged with the responsibility of managing it. During the process of collection the funds are not under their control; they cannot spend them as the budget law directs until the money is put into their possession. This transfer of the possession of the state's revenue from the various collecting officers to the treasury officials may, of course, be accomplished in divers ways. Actual coin and bills may be sent to the state treasury or there may be simply a transfer of the right of control over certain funds by means of a bank check. However it may be done the essential nature of the transaction is the same. The control of the revenues collected must be transferred from the collecting officers to the treasury officials who must do the disbursing. This transfer of control is commonly spoken of as the centralization of revenue.[1]

The question that we are called upon to answer at this point is then as follows: What are the requirements concerning the frequency with which and the methods according to which the control of the state revenues is transferred from the collecting to the central disbursing authorities.

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Considering first the question of the methods employed in transferring such control we may say that the first step requires obviously the determination of the amount of the funds to be transferred. This determination is, as a rule, based upon what is called a "settlement." That is to say that at certain times, varying according to the laws of each state and sometimes according to the source of the revenue, the collecting officer must make a statement to the central treasury official showing what funds of the state are in his possession and giving such other facts concerning them as may be required. Such a statement is, of course, always under oath. There are various ways by which a statement of this kind may be "checked" or verified but these considerations find a place in the following chapter. The point that has bearing here is that by such a settlement the amount of revenue due the state, gathered from any particular source by the officer making the settlement, is determined. The amount so determined can thereafter be transferred to the control of the state treasury officials in whole or in part as the laws of the state or the exigencies of the treasury may determine.

It was stated above that the actual transfer of the funds is accomplished in divers ways. In olden times a transfer of actual cash was made but modern methods are rather less cumbersome. Bank checks and drafts, express and postal money-orders are now the common agencies. Indeed, since in most of the states an independent treasury system has given way to the system of state and county depositories, the transfer of funds from the collecting to the disbursing officers represents very often nothing more than a transfer of credit on the books of a bank. This particular phase of the question is, therefore, not one that nowadays appears to be of much importance.

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It may be wise to refer somewhat to the frequency with which these settlements are required to be made. This matter is determined by the laws of each state for the officers of such state. A large number of states—about twenty—require regular monthly settlements on the part of the local collectors or receivers of state revenue with the state treasury officials,—that is to say,—the local officers must at intervals of a month pay into the state treasury those state funds for which, according to the settlement, they are found to be liable. In South Carolina semi-monthly settlements are required [1] and in the larger cities of some of the states —Missouri, Maryland and Virginia for example—the state funds are deposited weekly. It is also found that in many states [2] the auditor and the treasurer of the state may order a settlement at any time and the local officials have to be prepared to pay over whatever state money may be in their possession. In a few states it is found that monthly payments must be made only during certain periods of the year,—those periods when the collection of the annual taxes is under way. In Indiana for example there is a regular monthly settlement on the part of the county treasurers from December to April while after April there is no regular settlement until June 15th and after that none until December 15th.[3] In Kentucky in like manner there is a regular monthly settlement only from May to December and in Florida only through November, December and January.[4] In perhaps a half-dozen states the regular and

[1] *Laws of South Carolina*, sec. 401.

[2] California, Indiana, Iowa, Montana, Nevada, Pennsylvania, South Dakota, Utah, Vermont and Wyoming.

[3] *Laws of Indiana*, sec. 5642.

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required settlements come only quarterly[1] and in others[2] only semi-annually although it must not be forgotten that in some of these states the treasury officials may order the payment of the state funds at any time. In New England, where the towns are simply called upon to pay an apportioned share of the state tax, is found only the requirement that such tax be paid before a specified date.[3] Then other states require settlements at irregular intervals or have in addition to requirements for regular settlements certain special requirements of more or less interest. In Minnesota, for example, regular settlements are provided for in February, May, and October,[4] in Utah in January, April, July, October, November and December.[5] In Idaho it is required[6] that whenever the county treasurer has $100 belonging to the state (except the state school fund) it must be paid over forthwith to the state treasurer. In Ohio the auditor may draw on the county treasurers in favor of the state at any time between December 15th and June 15th for sums not exceeding two-thirds of the current collection of taxes for state purposes and the remainder is paid over at the regular semi-annual settlements in February and August.[7] In Rhode Island all persons receiving money for the state must pay the same to the general treasurer within 30 days after receiving it.[8] In West Virginia[9] the taxes collected

[1] Arkansas, Idaho, Louisiana, Pennsylvania, South Dakota and Vermont.

[2] Kansas, Montana, Nebraska, Nevada, Oregon and Virginia.

[3] November 1st in Connecticut, for example, and September 1st in Maine.

[4] *Laws of 1897*, ch. 100.

[5] *Laws of Utah*, sec. 2663.

[6] *Laws of Idaho*, sec. 1577.

[7] *Laws of Ohio*, sec. 161.

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by the local authorities must be paid over as follows: one-half on or before June 20th in the year next after such taxes are assessed, one-fourth on or before May 1st and the remainder on or before August 1st in the same year.

It is furthermore to be noted that the revenue derived from particular sources may be specially dealt with. Without going into this phase of the situation extensively, a few examples may be of interest. In Alabama, although for the state taxes the local officers must make monthly returns, the Probate Judge is required to pay over the revenue derived from licenses, etc., only quarterly. In Colorado and Illinois and some other states where the inheritance tax is collected by the local officers it is settled for only semi-annually. In Delaware the fees received by state officers must be paid into the state treasury seven days after being received; in Massachusetts and Kentucky the revenue derived from this source is settled for monthly and in Ohio only quarterly.

Pressure of one kind or another is brought to bear on the collecting officer wherever the required settlement and payment are not promptly and properly made. In the New England states, where the idea of town responsibility is the accepted one, the property of the inhabitants of the town may be seized under an execution issued by the state treasurer, if the town's quota of state taxes is not paid within the prescribed time, although in Connecticut the estates of the selectmen are first seized.[1] The town as a whole must of course make due reparation to any inhabitant whose property has been seized and in Vermont interest as high as 12% may be claimed. As a rule it may be said that the local districts are held responsible for their share of the general state taxes. If the collecting officers

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its quota of the taxes at a later date. In New York [1] if there are not sufficient funds in the county treasury standing to the credit of any particular town for the latter's quota of the state tax, the county treasurer is authorized to borrow money on the credit of the county, to pay such town's quota and the town must then subsequently pay the amount borrowed with interest. Penalties on the officers themselves for withholding the state's money are various. Indiana levies a penalty of 15% on the amount withheld,[2] Kentucky 6%,[3] Mississippi at a rate of 30% per annum [4] and New Jersey 10% per annum if held more than 15 days overdue.[5] In Utah the county treasurer runs the risk of losing a quarter's salary if he fails to settle when required.[6] In Wisconsin a penalty of 5% is provided and 10% interest per annum is also charged on the sums withheld and if, after a formal demand on the part of the state treasurer such payment is still refused, the penalty is increased to 10%.[7] The penalties here referred to concern for the most part the settlement by the local authorities for the property tax but penalties of a similar nature are provided in nearly all other cases as well. It would never do for the state to be lax in these matters.[8]

[1] *Laws of 1902*, ch. 378.

[2] *Laws of Indiana*, sec. 6496.

[3] *Laws of Kentucky*, sec. 4143.

[4] *Laws of Mississippi*, sec. 3840.

[5] *Laws of New Jersey*, page 3303, sec. 107.

[6] *Laws of Utah*, sec. 2664.

[7] *Laws of Wisconsin*, sec. 1117.

[8] Virginia has an almost unique provision in this particular. It is provided that (*Laws*, sec. 604 *a*):

Whereas during every session of the General Assembly it is developed that some of the county or city treasurers are in arrears to the state on account of collection of taxes, thereby depriving the Commonwealth of its just dues, which should be promptly turned into her coffers, and

Whereas, it is right and proper that the sureties of all such treas-

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Thus at one time or another and in one way or another the control of the funds that are collected by officials scattered throughout the state comes finally to be centralized in the hands of the few officials upon whom rests the responsibility of distributing or disbursing the revenue according to the budget law.

PART III. SAFEKEEPING OF THE PUBLIC FUNDS

The question of how the state should keep its public funds is one that in former days caused much more controversy than it does now. In older times not only were the stability and safety of banks seriously, and too often justly, questioned,—but the mere idea of having individuals make a gain out of the public funds was itself repugnant to the "democracy" of the period. Today better banking laws enforced with care have removed almost entirely the old distrust, while the narrow prejudice against banks as such has pretty generally been dispelled. In the national government where the independent treasury system has been in vogue since the forties various executive practices [1] have broken down somewhat the solidity of the system while in our states the independent treasury system seems to be in its last stages. One by one the state gov-

urers, as well as taxpayers, of the state should be apprised of the true facts in connection therewith; therefore

The Auditor of Public Accounts is required to have made from the books in his office annually at the end of the fiscal year a statement showing the condition of the accounts of every county or city treasurer of the Commonwealth who is in arrears to the state in his collection therefor, and a copy shall also be sent to the clerk of such city or county, who must post same at door of the court-house, etc.

It is then provided that any newspaper may copy and publish the same.

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ernments have adopted the system of bank depositories for storing the public funds and today fully three-fourths of the states have fallen into line.

The bank depositories employed are national and state banks and, in a few states, also trust companies. Besides her own banks and trust companies New Hampshire allows those of Massachusetts to be depositories of the state funds.[1] This is a rather unique provision, however, and the general rule is to limit the privilege of acting in this capacity in each state to the national banks doing business in such state and to state banks and trust companies organized under the law of the same.

The choice of the particular institutions to be employed in any state is, of course, one of considerable importance. The most important factor in this choice is that of security while the second is that of comparative advantage to the state in the employment of one institution rather than another. A few of the states[2] require a bank to have a prescribed amount of paid-up capital before it can be chosen as a depository, but in the others it is recognized that there are other ways of guaranteeing the security of the funds, and preliminary requirements of this kind are not insisted upon.

Method of Choice: The methods employed in choosing the state depositories it may be said that different officers are responsible in different states. In some states[3] the treasurer alone is responsible. In other states the treasurer may not act alone but requires the approval of other of the state officials. In some four states, for example,[4] the treas-

[1] *Laws of 1905*, ch. 68.

[2] Kentucky $100,000, West Virginia $20,000, Rhode Island $500,000.

[3] Kentucky, Minnesota, Nebraska, South Dakota and Texas, for example.

[4] California, Florida, South Carolina and Virginia.

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urer proceeds only with the advice and consent of the governor and the auditor. In Georgia and Maryland the governor and in Tennessee and New York the comptroller alone need to be consulted. In Iowa the Executive Council and in Massachusetts and New Hampshire the governor and his council form the advisory board. Then it is found that still other states vest the entire responsibility in special boards. In Kansas, for example, the Board of Treasury Examiners composed of the Governor, Secretary of State and State Auditor is a special board for the purpose.[1] In North Dakota the responsibility referred to is vested in the Board of Auditors which acts with the Governor,[2] and in West Virginia in the Board of Public Works.[3] Ohio and Wisconsin have each a special "Board of Deposit" composed of the Treasurer, Auditor and Attorney General in Ohio, and the Commissioners of Public Lands and the Governor in Wisconsin.[4]

The principles employed in determining the selection may or may not be prescribed by law. In some states—Connecticut and New Jersey for instance—full discretion is allowed to the responsible officers. In other states the laws make only general suggestions. In New Hampshire, for example, it is provided that "other things being equal" the preference shall be given to those banks which allow interest on daily balances,[5] in Florida the choice must be made according to the "best inducements" offered [6] and in New

[1] State Deposit Act of 1905.

[2] *Laws of North Dakota*, sec. 237.

[3] *Laws of West Virginia*, ch. 17.

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York [1] and Rhode Island [2] according to the highest rate of interest allowed—and so on. In still other states definite modes of procedure are prescribed, bids must be received and formally opened and the choice must be made according to the terms thereof.[3] The nature and contents of these bids naturally vary from state to state. A bid may have to do only with the rate of interest that the bank will pay—as in California—or it may have to do also with the amount of funds that such bank may desire. In Ohio banks desiring to be designated as state depositories must file applications before the meeting of the Board of Deposit and must append to such applications sworn statements of their financial condition.[4] In Kansas and Texas each bank must deposit with its bid a certified check for $250 and $500 respectively, which is forfeited if the bank should fail to comply with its bid or proposal in the event that it is chosen as one of the depositories.[5] Moreover in some of the states a minimum rate of interest is prescribed;[6] 2% is the common minimum rate although in Wisconsin it is 2½%. As a rule, however, no minimum rate is prescribed because it is recognized that conditions might arise where the minimum rate would be unobtainable and it would be inadvisable to tie the treasurer's hands in such cases. A few of the states which prescribe a minimum rate obviate the difficulty here suggested by allowing the treasurer to make special deposits for safekeeping at any

[1] *New York Finance Law*, art. 1, sec. 8.

[2] *Laws of Rhode Island*, title vi, ch. 33.

[3] California, Kansas, Missouri, North Dakota and Texas.

[4] Bates, *Laws of Ohio*, 1787-1906, pp. 200-4.

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time, but in such cases a prescribed minimum rate of interest serves but little purpose beyond suggesting what may be considered a fair rate. The interest so received is ordinarily calculated on the basis of daily average balances.[1] The various points hereinbefore referred to indicate then the general requirements or principles according to which the choice of the depositories is made.

The number of depositories that may be chosen also differs from state to state. In Delaware the Farmer's Bank in which the state is interested is practically the sole depository. Massachusetts on the other hand has a very large number. In Georgia a depository is chosen in each of 43 cities that are designated by law.[2] In Iowa "one or more" is chosen in Des Moines. In New York the depositories are restricted to the cities of New York and Albany but the number is left to the discretion of the treasurer and the comptroller.[3] In Kansas the number may not be less than ten and in Kentucky not less than three nor more than five. In most cases, however, the responsible officials are given considerable discretion in this particular.

A few of the states lay down also certain rules which are aimed to prevent discrimination in favor of any particular bank or banks in the deposit of public funds. In California for example, according to the constitutional amendment which was responsible for the depository act of 1905, no officer may deposit more than 20% of public funds available at one time for deposit in any bank when there are

[1] As a matter of fact the rate commonly obtained varies slightly about 2% to 3%. The amount of revenue obtained from this source

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other qualified banks requesting such deposits. The law of 1905 goes even further and permits only one-tenth of the available amount of state money to be placed in any one depository. In Kansas the law directs the treasurer to make his deposits in "proportionate amounts" and to draw his checks on the several depositories in the same way.[1] In Missouri the funds of the state are divided into twenty equal parts and the banks bid for the amounts they desire.[2] In Texas the treasurer is directed to maintain as nearly as possible an equal balance in each bank in proportion to the amount each is entitled to receive.[3] That rules of this kind are often necessary is shown by the revelations arising out of the wrecking of the Enterprise bank in Pennsylvania hardly a year ago.

The security of the funds placed with depositories is safeguarded in a number of states by certain special provisions.

In the first place it is found that at least ten of the states require the depositories to give bond. In some cases the amount of this bond is specified, being $25,000 in Texas and $50,000 in Georgia, Virginia and West Virginia. In Kentucky the minimum amount of the bond alone is prescribed ($100,000). In Minnesota and Montana the amount of the bond must be at least double the amount of the deposits while in Nebraska, North Dakota and Wisconsin the amount must be approved by the proper authorities.

A second method related somewhat to the first requires the depositories to deposit with the state adequate security for such funds as may be entrusted with them. At least ten[4] of the states employ this method, among them being

[1] Depository Act, 1905.

[2] *Laws of Missouri*, sec. 10453.

[3] *Texas Law: of 1905*, ch. 164.

[4] California, Florida, Kansas, Maryland, Michigan, Missouri, North Carolina, Ohio, South Dakota and Texas.

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Texas which was mentioned as one of the states requiring a bond from depositories. The amount of security so required depends, as a rule, upon the amount of funds deposited with any particular bank. In Texas the amount is fixed—$50,000 in U. S. bonds, Texas bonds or those of the minor divisions of the state.[1] In South Dakota the amount is $250,000 and never less than the deposit.[2] In California the amount must be at least 10% in excess of deposits [3] while in Kansas and Ohio the deposits need merely to be covered.[4] In the other states the security must be simply "ample" or "sufficient."

The third and last method of guaranteeing the security of deposited funds has to do with the limitations on the amounts that may be deposited. In some cases this limitation is expressed in terms of percentages of the capital stock, in other cases in fixed amounts and in still others in terms of a percentage of the bond given or security deposited. In California, for example, the constitution prohibits deposits in a bank above 50% of the bank's capital and the state law goes a step further and makes the maximum 25% of such capital. Tennessee also limits the state's deposits in any bank to one-fourth of the bank's capital.[5] In Connecticut the state's funds in a bank may not exceed 30% of the bank's capital, surplus and undivided profits.[6] Nebraska places a similar maximum at 30% of the capital,[7] Massachusetts and New Hampshire at 40% and Kansas at 75%.[8] In

[1] *Laws of 1905*, ch. 164. [2] *South Dakota Laws*, sec. 341.

[3] *Laws of 1905* (California), ch. cccviii.

[4] Kansas State Depository Act, 1905; and Ohio, *Bates Laws*, 1787-

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North Dakota the maximum is the "assessed value" of "paid up capital" [1] and simply the "paid up capital" in Ohio and Wisconsin.[2] Kansas also limits the deposits of the state in any bank to $100,000; [3] Maine to $20,000, except in the bank through which the treasurer may wish to meet the interest on the state debt; [4] Texas to $50,000 and Ohio to $500,000.[5] Then, finally, in Nebraska the deposits of the state in any depository may not exceed 50% of the bond of such depository,[6] and in West Virginia three-fourths of such bond.[7] Wisconsin allows a deposit up to the amount of the bond [8] and Georgia allows the deposits to exceed the bond but not for a period longer than ten days.[9]

It must, however, be also observed that some of the states do not regard it as necessary to safeguard their funds in banks, with special requirements that do not apply equally to the deposits of private individuals.

Critical Remarks: On the whole the system of state depositories has worked well. Petty scandals have of course arisen in a few states. In Pennsylvania indeed the democrats of Philadelphia were moved to insert the following in the platform of 1905: "The same corrupt ringsters who have plundered Philadelphia dominate and mis-

[1] *Laws of North Dakota*, sec. 237.

[2] Ohio: *Bates Laws*, 1787-1906, pp. 200-5; and *Wisconsin Laws*, sec. 160.

[3] Kansas, *supra cit.*

[4] *Laws of Maine*, ch. 2, sec. 58.

[5] Bates, *Ohio Laws*, 1787-1906, pp. 200-5; and Texas, *Laws of 1905*, ch. 164.

[6] *Laws of Nebraska*, sec. 5088.

[7] *Laws of West Virginia*, ch. 1[illegible]

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govern the state. The citadel of their power is the office of state treasurer. By distributing state funds among favored banks they insidiously bribe eminent respectables who otherwise would not close their eyes to rascality." And in Ohio, too, a legislative investigation into the affairs of Hamilton County showed how the interest paid by the banks was systematically appropriated by the "ring" treasurer. But these evils have been comparatively few and they are of the kind that stricter legal provisions can be expected to eradicate. There is hardly any question that in time all the state governments and probably also the national government [1] will come to adopt the system of using banking institutions as depositories for the public funds because it is the system that the consensus of the best opinion supports.

PART IV. DISBURSEMENT

In the first chapter of this treatise reference was made to the fact that the basic principle of modern constitutionalism is that of the popular control of the public purse. Payments can be made from the public treasury only in pursuance of an appropriation made by law and such law must, of course, emanate from the representatives of the people. This theory is fundamental to our American institutions and is universally applied in all our governmental organizations.

The strict prohibition placed upon the executive officers of the government against the expenditure of the public funds for any purpose not fully authorized by law makes it

[1] It is interesting to note that one of the recommendations of the

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necessary for some one to determine just what expenditures are authorized. There has grown up in consequence, in all constitutional governments, one set of officials whose chief duty it is to study and interpret the law authorizing the expenditure of the public funds and who determine the authenticity of claims presented in accordance with such laws and the identity of the persons to whom payments may be justly due, and another set of officials who have immediate charge of the state's funds and who actually pay the bills of the state when authorized by the officials of the first class. Stourm speaks of these two kinds of officials as "ordinators"[1] and "payers" ("ordonnateurs" and "payeurs"). The "ordinators" authorize the payment of the various bills of the state when they are satisfied that such payments are fully covered by lawful appropriations and the "payers" actually deliver the money for such bills to the persons entitled to receive it, when the orders to pay them are duly presented.

The great diversity of the activities of and the huge sums expended by the great national governments have of necessity given rise to a more or less complicated organization of the "ordinators" and the "payers;" but in our states, where the governmental activity is not so diversified and the sums expended are relatively small the organization here referred to is simple. Not stopping to point out minor differences it may be said that the financial departments of our various states are divided into two parts—one the office of the "Auditor" or the "Comptroller" and the other the office of the "Treasurer." The auditor or comptroller

[1] It is difficult to supply an English equivalent for "ordonnateur." The word "orderer," besides sounding very awkward, conveys an idea of too much authority. The "ordinator" really has not final authority in ordaining that a payment be made. The payer has the right to refuse an illegal payment.

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is the bookkeeper of the state and is, as a rule, in general charge of the state's finances. He may and usually does have one or more deputies whose duties for the most part he prescribes and besides these he has, of course, the necessary office force. He is also the officer who in almost all of our states authorizes the payments out of the state treasury although in a few of the states [1] the chief responsibility in this particular is vested in the governor. The state treasurer on the other hand is the keeper of the public moneys. His chief responsibility is to see that the funds are safely kept. He too has, as a rule, one or more deputies and a sufficient office force. He is the officer who on the "order" of the auditor or comptroller or governor, as the case may be, pays out the money to liquidate the state's various obligations. It must not be supposed that he exercises absolutely no authority over such payments. He himself must be satisfied that the "order" or "warrant" from the auditor has been issued in accordance with the law and he has the right to refuse payment on "warrants" that are not legally issued. At best, however, he has only a veto on such warrants. He can make no payments without the "warrant" or "order" unless there are specific legal requirements to the contrary.[2] In general, then, it may be said that the auditor's department in our states has to do with the "ordering" or the "authorizing" of the payments out of the public treasury while the treasurer's de-

[1] Georgia, Maine, Massachusetts and New Hampshire.

[2] There are certain payments for which the treasurer needs no warrant from the auditing department. These are payments to the mem-

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partment is concerned with the duty of actually paying out the amounts pursuant to such orders.

Payments out of the state treasury are made on "warrants" or "orders" issued by the auditor or comptroller. In a few cases these warrants, as has been said, are issued by the governor but even in such cases the preliminary examination is made by the state's auditing department. More will be said about this examination in the following chapter. It will suffice here to say that when satisfied as to the lawfulness of any particular claim for money from the state the auditor makes out his warrant directing the treasurer to pay the amount determined to be due to the person entitled to receive the same. Before these warrants become valid, however, they must in most states be countersigned by the state treasurer, in Florida by the Governor and in Georgia where they are originally issued under the authority of the Governor they must be countersigned by the Comptroller. It is, as a rule, the auditor's business to see to it that the warrants are so countersigned and before issuing any warrant he must, in all cases, enter in a proper book a full record of the same.

The treasurer too must keep in his office a full record of each warrant presented to him—the name of the payer, the date, on what account paid and out of what fund, according to what appropriation issued, etc. When the various requirements of this kind have been fulfilled the treasurer pays over the cash to or makes out his check on one of the depositories in favor of the person entitled to receive the same, or, in case the warrant has been turned in, in payment of some obligation due the state he gives a proper receipt for the amount of the warrant and the warrant is then canceled.

Thus the funds of the state are again finally distributed. There is first the collection of the revenue and the gradual

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increase in the amount of the funds in the treasury. Then follows the disbursement according to the lawful appropriations and a consequent diminution of the state's funds. It is like the flow and ebb of the tides. The whole process we have considered as the "Execution of the Budget" and now, after a wearisome chapter, having come to the end of that process, there remain to be considered in the final chapter certain points which have to do with the ultimate determination as to whether the budget law was properly executed or not. For want of a better name this chapter has been designated the "Control of the Budget."

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CHAPTER V

THE CONTROL OF THE BUDGET

THE budget law in its entirety provides for the collection of certain funds for the state and also for the application of such funds after collection has been made. The "control of the budget" would then have to do with the means employed for ensuring the honest execution of the budget law in accordance with its provisions. This implies on the one hand the question of efficient administration and on the other the vital constitutional question of the ultimate control of the public purse.

On the side of collection there are no particular problems that present themselves except those that have to do with the enforcement of honesty on the part of the agents of the state in collecting and turning over the revenue due the state and those that have to do with questions of justice to the various taxpayers. Sufficient reference has already been made to these particular points in the general discussion relating to the execution of the budget.

On the side of expenditure, however, serious constitutional principles are involved. There is not only the necessity of enforcing common honesty on the part of the officials of the state in the handling of the funds that are entrusted to them but also the necessity of guaranteeing that such funds shall be applied in accordance with the will of the representatives of the people as expressed in the budget law. If the law directs that the public money be applied in speci-

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fied ways while the officers of the state without fear of being discovered or called to account apply such money for purposes not sanctioned by the law the popular control of the purse would in effect be nothing more than a shadowy theory. It is here then, on the side of disbursement, that the question of the control of the budget has its greatest importance.

In discussing the question of disbursements in the last chapter it was necessary to refer to two classes of officers who are chiefly concerned with the distribution of the public funds. Following Stourm's designation these were referred to as the "ordinators" and the "payers" and it is here that a further word or two must be said about them.

The function of the "ordinators," as was stated in the chapter referred to, is to determine whether any particular expenditure is fully in accordance with the will of the representatives of the people as expressed in the budget law or acts of appropriation and if that proves to be the case, to authorize the "payers" to turn over to the one entitled to receive the same, the amount that may be declared due. This constitutes in essence a judicial function since it has to do with interpreting and declaring the meaning of a law as well as defining its application. Although this is thus essentially a judicial function it is not one that is entrusted to the regular courts, but in all constitutional governments it is vested in a special administrative office or bureau whose responsibility to the people or their representatives can thus be made much more direct.

A complication is, however, introduced by the fact that our popular representative assemblies are made up of groups of members of different political faiths and between such groups rivalry, more or less intense, always exists. One group is in control at one time and another at another, according to the changes in popular sentiment. These

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changes of control or changes of "administration" as we call them, would necessarily react upon the "ordinators" here being discussed, if their own official positions were in any manner affected by them. They might be disposed to sanction what would be in reality an illegal expenditure simply out of sympathy for or fear of the administration. Consequently the effort has been made in most constitutional governments to remove the "authorizing" or "ordaining" authority as far as possible from the influence of politics and to render it as independent as the general form of government will permit. In England, for example, the Audit Department at the head of which is the Auditor and Controller General, is a branch of the permanent civil service. The Auditor and Controller General is independent of the "government" because he is an appointee of the Crown and because he holds his office despite cabinet changes. Yet he is held thoroughly responsible to Parliament representing the people as a whole. There is a committee of the House of Commons which regularly "audits the Audit Department." This committee according to Woodrow Wilson [1] is made up of the most experienced business men in the Commons and before it all the accounts of the completed financial year are passed in review.

In the general government of the United States the Comptroller of the Treasury and his Auditors perform the services of examination before a warrant is issued on any account although as a matter of fact warrants are issued in the name and must bear the signature of the Secretary of the Treasury. The general independence of the Comptroller's department is guaranteed by the independence of the Treasury Department itself which is placed in a position of authority in all matters relating to the government

[1] *Congressional Government*, p. 144.

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accounts. Direct and regular popular investigation into the affairs of the Comptroller's department, such as characterizes the practice of the British Parliament in relation to the Audit Office, is, however, wanting. In 1814 Congress provided for a congressional auditing committee to go over the various accounts of the Treasury Department but such regular investigation is no longer carried on.[1] The abstract constitutional principle of the popular control of the public purse would seem to demand such a final investigation by the representatives of the people; but questions of expediency, traditional practice and the ever-present possibility of examination and calling to account may materially modify the application of the principle and make regular examinations unnecessary. Congress has, of course, the right to make at any time a special examination of the Treasury Department and every other department and the growth of reprehensible practices is thus effectually checked.

In considering now more particularly the control of the budget in our states we shall take up first the payment of money from the treasury or the examination of the claims and bills that are to be liquidated by such payments, and in the second place a few words will be said concerning the examination of the accounts and records of the officers of the state who are concerned in the handling of the public revenues.

The auditing of the bills or claims which call for payment from the treasury is in most of the states entrusted to the auditor's or comptroller's department. The auditor or the comptroller who is the responsible head of such department is in most of the states elected by the people, although in a few states he holds his office by virtue of ap-

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In some states [1] however, bills or claims are audited by special boards known variously as the Board of Examiners, the Board of Auditors and the State Auditing Board. These boards are made up of some of the executive officers of the state according to the laws of the particular state concerned. It deserves mention also that in some states there are special boards for the auditing of all claims against certain special funds. In California and Nevada for instance there is a special Board of Military Auditors which audits all claims against the military fund.

It may be said at this point that in auditing any claim against the state the object is to establish the validity of the claim under the laws. In all the states a distinction is made between those claims which are covered by appropriations and those which are not so covered but which have, nevertheless, a legitimate right to be recognized. For the latter claims it is customary to give a certificate for the amount found to be due but no payment of money is made until the whole matter has been reported to the legislature. Any other procedure would as a rule be unconstitutional. In regard to claims or bills that are fully covered by appropriations the duty of the auditing authority is to determine the validity of every claim presented, to establish the right of the person claiming the money to such amount and, when satisfied as to both the validity of the claim and the identity of the claimant, to see to it that the necessary "order" or warrant is issued.

The general nature of such examination and determination may be shown by the requirements in New York. In this state the comptroller may not draw his warrant for claims except salaries and similar expenditures the amounts of which are definitely and specifically fixed by law, unless

[1] California, Idaho, Maine, Michigan, Montana, Nevada, North Dakota and Utah.

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the person presenting the same presents a detailed statement of items and makes all reports required of him by law. If such a statement is for services rendered or articles furnished it must show when, where, to whom and under what authority they were rendered or furnished. If it is for traveling expenses it must show the distance traveled and between what places as well as the duty or business for the performance of which the expenses were incurred and the dates and the items of each. If the statement is for transportation, furniture or supplies, etc., a bill duly receipted must be attached to the same and finally, every such statement must bear the claimant's oath to the effect that it is just and correct. It may be added also that the auditing authorities in the states are vested with the power of summoning witnesses and examining books and with such other powers as are necessary to enable such authorities to get at all the facts that may throw light upon the general validity of the claim.

An appeal from the decision of the auditing authority is always provided for. In most cases when the claimant is dissatisfied with the decision rendered it is required that the matter be reported as soon as possible with all the evidence, etc., to the legislature and the legislature then deals with the matter as it sees fit. Some legislative committee, usually a "Committee on Claims," takes the whole question in charge and whatever action is taken by the legislature rests, as a rule, upon the report of such committee. But in Nebraska and West Virginia an appeal to the courts may be taken. In West Virginia any person having a claim against the state which the auditor has disallowed may apply by petition to the circuit court of the

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taken to the district court and may be carried to the supreme court of the state.[1] The practice of giving the courts either an original or appellant jurisdiction in matters relating to the expenditure of public money is, however, on the whole, very uncommon.

In general the problem that underlies the question of the control of the budget is on the one hand to keep the auditing authority sufficiently independent to remove it from the influences of politics and on the other hand to prevent it from becoming too arbitrary. An auditing board composed of selected state officers is too strongly under the influence of the administration and might easily connive at a departure from the provisions of the law. Furthermore, where the auditing authority is vested in a single officer and his department, even though such officer and department do enjoy in the matter of the state accounts a considerable independence, still the fact remains that the term of office of the auditor or comptroller is in most cases subject to the uncertainties of politics and his independence from political influences is thus of necessity a doubtful and a precarious one. From the point of view of independence then it cannot be said that the general system of auditing claims and allowances in our states compares very favorably with the English system. How badly our system can be made to work at times is shown by the recent exposures in Pennsylvania by Treasurer Berry. Enormous outlays were made ostensibly for parquette floors in the new capitol that should not have cost half the amount charged. A careful and honest auditing of the various bills presented would have prevented this diversion or squandering of the people's money.

There is of course not the slightest danger of the

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ing authorities in the states. The general provision for an appeal to the legislature in cases of unsatisfactory decisions on claims is one safeguard — and a mighty one. Furthermore at least nine states[1] have provisions for the regular examination of the auditor's office on the part of the legislature, and in all of the states there hangs over the head of every department in the state government the possibility of a special legislative investigation at any time. Again, in addition to the reports that are regularly required, special reports covering any particular field may be required at any time. Thus whether there is a regular legislative investigation or not there is no danger that the legislature will lose control of the situation. The control of the purse by the representatives of the people is a principle too firmly imbedded in our institutions to permit executive or administrative aggression in this respect at the expense of the legislative authority.

Heretofore we have been concerned mostly with the auditing of claims—as they are technically called—or payments that are made originally out of the state treasury. There is, however, a further question of control which has to do with the auditing of the general accounts in the offices of the state government and of the institutions supported by the state. This is largely a question of enforcing honesty in the handling of the public funds, but it implies also a testing of the sundry expenditures made by such offices and institutions in order to ascertain whether they have been made conformably to law. But these two phases of the question go hand in hand and no attempt will be made to distinguish between them.

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the states more or less full control of all matters relating to accounts and the system of accounting to be employed, and the tendency is strongly marked to give the department power to enforce a uniform system of accounting among all the offices of the state, the state institutions and the counties. Indeed it is in the matter of accounts that the state's direct supervision of the county government is more marked than in any other particular. The accounts of the county auditors and treasurers throughout the states are regularly audited at least once a year by the state authorities. The time for such inspection is not fixed but without previous notice the auditor or the comptroller himself or a deputy or special examiner bears down upon the county officers and makes an examination of the books and records of their offices. Full reports must as a rule be made to the governor or to the legislature and discrepancies should therefore be easy to detect. For the various state institutions the examination of the accounts is about the same. There has been a very encouraging improvement throughout the country concerning the accounting in these institutions. Some states have special accountants whose chief business it is to look after the accounting in the institutions of the state. The Fiscal Supervisor of Charities in New York and the Public Examiner in Minnesota are cases in point. Special legislative committees of investigation are also common. We cannot go into details here concerning the auditing of accounts in the counties and the institutions supported wholly or in part by the state but suffice it to say that in practically all of the states the attempt either has been or is being made to obtain a greater uniformity in the systems of accounting among the counties and the state institutions and a more careful inspection and examination of such accounts is thus becoming always more easily possible.

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The accounts of the state treasurer, by whom all the money of the state is in the first instance paid out, are in every state required to be periodically and thoroughly audited.[1] There are in the first place many requirements as to the examination of such accounts by the auditor or comptroller. In some states[2] the accounts of the state treasurer must be examined by the auditor or comptroller once a year; in a large number of others the examination must be quarterly and in still others[3] monthly. In Ohio there is a weekly comparison of accounts and at the regular quarterly settlement of the treasurer's accounts the governor may require the secretary of state or the attorney general to be present and the officer so chosen must endorse the certificates of the settlement with his signature.[4] In Kentucky a certificate of the monthly settlement must each month be filed with the secretary of state, and he reports the same to the General Assembly during the first ten days of each session.[5] In some of the states,[6] moreover, the treasurer must make a daily statement to the auditor of the business of each day. Special provisions concerning the surrender of redeemed warrants, coupons of bonds, etc., are also common. In Florida the treasurer must submit a trial balance sheet each month to the governor while in New Jersey the treasurer must file annually a similar sheet signed by the Auditing Committee. Thus almost every state has some special provision of its own in this particular. Moreover in al-

[1] Similar requirements cover the accounts in every other state office where there are financial transactions. We shall confine ourself here, however, to the purely fiscal officers.

[2] Massachusetts and Pennsylvania, for example.

[3] Idaho and Maryland, for example.

[4] *Laws of Ohio*, sec. 102.

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most all of the states there is an express provision in the law which enables the auditor or comptroller to examine the books and accounts of the treasurer whenever he sees fit.

In the next place there are in at least half of the states special boards or officers who are charged with the duty of examining the treasurer's books. In nine of the states [1] there is a regular auditing board or board of examiners who must examine the treasurer's books and accounts either annually or a prescribed minimum number of times each year, although in some cases the board may exercise its own discretion in the matter. These boards are made up of a few of the state executive officers as the governor, secretary of state and auditor in Kansas, or the governor, secretary of state and attorney general in Minnesota, or the secretary of state, auditor and attorney general in North Dakota. In Indiana and Ohio whenever the public interest requires it the governor appoints an expert accountant who acts with the secretary of state in the examination. In other states there is express provision for the regular or occasional appointment of a special examining officer who besides other examinations must conduct one into the accounts of the treasurer. In some states such as Idaho and Wyoming he is given the title of Special Examiner, in Vermont that of Inspector of Finance while in other states he enjoys no such title or official designation. In all cases the office is filled by appointment by the governor and the reports of the examination have to be made to him. The governor himself is often required to examine the accounts of the treasurer and the state of the treasury. In Georgia and Maryland for example the state constitutions require the governor to examine the treasurer under oath,—quarterly

[1] California, Connecticut, Kansas, Michigan, Minnesota, Montana, Nevada, New Hampshire and Utah.

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in Georgia and semi-annually in Maryland. In Iowa the governor must himself at least four times a year examine the treasurer or he must appoint a committee for the purpose[1]. Finally, Kansas and North Dakota, which have special boards of examiners whose duty it is among other things to audit the accounts of the treasurer, have provisions also for special officers in addition to such boards. In North Dakota such officer is regularly appointed but in Kansas he is appointed only when the governor deems it necessary.

Thus it would seem that so far as the law can go a wide and sufficient administrative examination is provided for the state treasurer's office. But the efficiency of such examination cannot always be guaranteed. There is reason to believe from happenings in some of the states that in some cases at least the examinations are perfunctory and that political influences are sometimes brought to bear to prevent them from being thorough or searching. Much depends upon the character of the responsible officials concerned, because the provisions of law in all these cases are necessarily very general and where this is true the ultimate responsibility is on the voters themselves for they elect the officials.

In addition to the administrative examination of the accounts of the treasurer there is always a more or less thorough legislative examination. In all the states the treasurer must make a report to the legislature either directly or through the governor. These reports cover all the operations of the treasury in detail for the fiscal period. But in addition to these regular reports there is in a considerable

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least eleven of the states have explicit statutory provisions concerning the appointment of such committees and in all of the states a legislative investigation may be provided for at any time. The committees are authorized, as a rule, to employ expert accountants, etc., and are given whatever other powers are necessary to enable them to conduct a thorough examination. Special reports may also be called for at any time, but these are less common in the states than in the national government. The power of the legislative branch of the government to examine thus into the affairs of all the civil officers of the state with whatever degree of thoroughness may suit its convenience is an integral part of our institutions and although this power may not be always or regularly used the possibility of its employment hangs like a warning sword over every official's head.

Concerning the examinations into the accounts of the auditing department some references have already been made in relation to the auditing of claims and bills payable out of the state treasury. Referring at this point more broadly to the accounts in general it may be said that this department also is subject, in a greater or less degree, to administrative examination. The control of the accounts of the various other officers of the state by the auditing department renders it impossible that any of the other ordinary administrative officers should be vested with the authority to examine the accounts of such department. In all of the states, however, the governor as chief executive officer enjoys the power of requiring information from the officers of the state or of examining into the affairs of their offices whenever he sees fit. In Georgia and Maryland the governor is required to examine the comptroller under oath as well as the treasurer. The constitution of Kentucky requires the General Assembly to provide by law for a monthly examination into the accounts of the auditor and

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the results of these examinations must be regularly reported to the governor.[1] Furthermore a considerable number of states provide for the examination of the accounts of the auditing department by the special officers and boards that were spoken of in connection with the examination of the treasurer's accounts. As was indicated in the case of the treasurer, so here, these examinations may be prescribed for specified periods of time or a minimum number may be prescribed for each year or the matter may be left entirely to the discretion of the boards or officers themselves or to that of the governor.

It may be said also that in at least a third of the states there are special provisions for legislative investigation into the affairs of the department here being discussed. Standing or special committees of examination are provided for either by constitutional or statutory enactment or by the rules of the legislature itself. The committees are for the most part the same ones that are required to audit the accounts of the treasury department and they are thus enabled to check the accounts of one department by those of the other. Furthermore regular reports covering the entire transactions of the fiscal period must be made to the legislature at each session. Here also it deserves to be mentioned that, irrespective of what the regular requirements may be, there is not the slightest doubt about the power of the legislature to provide for any examination it may deem appropriate into the affairs and records of the auditor's or comptroller's department.

Although there is thus in the various phases of the control of the budget a large measure of administrative and

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officers are concerned. Grand jury investigations into the affairs of county and municipal officers are, however, quite common. The constitution of Colorado does indeed provide that the District Court of the county, wherein the seat of government is, may appoint committees of the grand jury or other persons not exceeding five to investigate the affairs in the offices of the state treasurer and state auditor.[1] Furthermore it goes without saying that in any action brought to remove any officer for discrepancies discovered or for recovery on his bond the court reviews all the evidence that is submitted and thus really decides whether or not a discrepancy exists. On the whole, though, the fact remains that the jurisdiction of the courts in these matters is only secondary in character. In practice the administrative examination is the most important, although theoretically chief importance attaches to that of the legislature.

Here at the end, however, it must be said that one of the greatest factors in the control of the budget in our country is publicity. The final authority is after all the people as a whole and public opinion is the ultimate tribunal. Reference has already been made to the fact that reports of receipts and expenditures of the state must be published at regular intervals, but in addition to this well-recognized constitutional requirement every state demands a much wider publicity of the acts of its officers. In every jurisdiction enjoying any degree of independence in financial matters—however small and insignificant such jurisdiction may be—it is required of the officers in charge that they report in some way to the people. The reports may have to be simply written reports that are posted in public places or they may be even a little more important and may have

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tion; but if the office concerned is one of broader and more general importance, the reports have, as a rule, to be printed in book or pamphlet form so that every interested citizen may examine them carefully in his home. The theory here is that the people have the right—and indeed it is considered their duty—to know how their business is being carried on. In Washington the general public has the authority to go right into the treasurer's office during office hours and inspect the affairs there for itself.[1] It therefore remains true that the real question of the control of the budget, so far as our states are concerned, is not one that has to do at all with the liberties and authority of the people—for in this nation that is forever settled—but one that is concerned with the more perfect administration of and the application of business principles in the business affairs of government. No sympathetic believer in our institutions will doubt that in the fulness of time a satisfactory solution of this question will be worked out.

[1] *Laws of Washington*, sec. 157.

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STUDIES IN HISTORY, ECONOMICS AND PUBLIC LAW

EDITED BY THE FACULTY OF POLITICAL SCIENCE OF
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Volume XXV] [Number 3

THE FINANCES OF CLEVELAND

BY

CHARLES C. WILLIAMSON, Ph.D.

University Fellow in Political Economy



New York

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PREFACE

In the preparation of the following study of the *Finances of Cleveland* I have met with special difficulties growing out of the frequent changes in organization and administrative methods which have occurred in the history of that city. Because of these I can scarcely hope that I have invariably presented all of the most important facts or avoided all errors. Wherever feasible, I have given specific references to laws, ordinances, and reports; for the statistical data, however, exact references could not always be given. The condition of the financial reports has occasionally made necessary a more or less arbitrary rearrangement of the data they contain, in order to make them comparable with other reports. In the work of collecting and arranging so large a body of facts I have probably not escaped making a few merely mechanical errors. My results, however, are not designed to have the degree of accuracy that is necessary for accounting purposes. For the use of the student of municipal problems, it is believed that such minor inaccuracies as have been unavoidable will lessen but little the value of the facts presented.

I am glad to have this opportunity to make acknowledgment of aid received from the Carnegie Institution, of Washington, in connection with the preparation of this monograph. The work was originally undertaken at the suggestion of Professor Henry B. Gardner, of Brown University, who is directing for the Institution investigations into the financial history of the country to constitute a part of a projected economic history of the United

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States. I wish to make special acknowledgment also to the officers of the Western Reserve Historical Society, of Cleveland, for their kindness in placing at my disposal the Society's very complete collection of municipal records and reports. I am also under obligation to many of the officials of the city of Cleveland for advice and criticism. Especially am I indebted to Newton D. Baker, Esq., City Solicitor of Cleveland, for reading my manuscript and making valuable suggestions, and to Professor E. R. A. Seligman and Professor H. R. Seager for assistance in the matter of publication.

C. C. W.

Columbia University, March 19, 1907.

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CHAPTER I

Introduction

§ 1. *Importance of Municipal Finance.* The rapid growth of cities in the United States has given rise to many important social and economic problems. Of these problems those concerned directly with public finance do not yield in importance to any. "What are the most pressing needs and important problems in the government of American cities?" was asked recently of Mayor McClellan of New York City. His answer was, in part: "To make a little money go a long way. No city in the United States, so far as I know, has the means to do all that is required of it. The rich ones and the poor ones are alike in this respect." Municipal finance has become far more complex than the fiscal matters of either state or Federal government. In mere magnitude also the fiscal operations of American cities take first rank. The annual expenditures of the one hundred and seventy-five cities of the United States having a population of more than twenty-five thousand exceed the expenditure of the National Government, and are also in excess of the annual cost of all the state governments. The net indebtedness of these one hundred and seventy-five cities is likewise greater than the total debt of the United States, and is increasing with great rapidity.[1] In 1904 the one hundred and fifty-one largest cities paid to the public more than twice as much for interest as was paid by the Federal gov-

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ernment. The expenditures of each of the two largest cities of Ohio exceed by a million and a half the total expenditure of the State; while the five largest cities annually disburse considerably more than three times as much as does the State itself. In 1905 the indebtedness of cities in Ohio amounted to $103,557,868, the funded state debt being less than $2000, and the irreducible state debt in the form of trust funds only $4,902,110. Excluding the debts of cities, the whole amount of local debts reached but $35,298,-945.[1] As this latter sum includes the debts of counties and special school districts, as well as of incorporated villages and townships, it is evident that a still larger proportion of local indebtedness is attributable to urban centers. In many other states conditions are not dissimilar.

Notwithstanding its importance, almost no scientific study has been made of municipal finance in the United States. For this apparent neglect two principal reasons may be assigned. First, it is evident that no important conclusions can be reached in regard to the development of the municipal economy in general until that development has been traced minutely and accurately for a relatively large number of cities. Such a study has been made available for but three or four important municipalities.[2] The second reason for a lack of fruitful investigation in municipal finance is found in the diversity and inadequacy of the financial reports of the cities themselves. Fortunately the latter defect is now being removed through investigations conducted by the Bureau of the Census and by several state governments, with the coöperation of progressive city

[1] *Annual Report of the Auditor of State* for 1905, p. 778.

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officials and students of public finance and of municipal affairs.

§ 2. *Aim of this Study.* The present study aims to contribute to a knowledge of the historical development of individual cities. General results are not sought; neither is it proposed to recite the bare facts of revenue and expenditure. The aim is rather to present a concrete historical study of: (1) the cost of the varied and rapidly multiplying municipal functions; (2) the means by which these costs are met through the use of powers delegated to the municipal corporation by the state; and (3) the administrative relations of both revenues and expenditures. The various functions themselves are not considered from the point of view of the legal or technical expert, but rather as they appear in the budget and present themselves to administrative officials and taxpayers as a problem of ways and means. Among students of municipal problems the consensus of opinion is that such historical work is needed. According to a recent writer:

> The work now most requisite for the proper understanding of municipal finances is an historical study for a series of years of the growth of municipal departments; the history of the administrative changes in the development of a city function, the progress from management by a committee of the city council, to management by a board, to management by a single head; the history of consolidation of related departments and the gradual separation of new departments from old in the process of progressive differentiation.[1]

Professor Hollander, to quote but one other investigator in the field of municipal finance, says: "Until essential data

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ing the financial status of representative American cities, there can be no comprehensive study of many of the most important aspects of municipal finance." [1]

Certain secondary results should be reached in detailed studies of this sort. Although the fiscal problems met with in municipal administration are vast and complex, our cities depend less upon the expert and trained administrator than does the national government, or even the governments of many of the states. Criticism from the public is, under these circumstances, highly desirable. Honest inquiry of any sort can have only a wholesome effect on the public official.[2] On the other hand an appreciation of the vastness and complexity of the problems presented by municipal finance should lead to a more careful selection of public officials.

A critical study of the financial and administrative history of a city during the whole period of its existence should also throw some light on its probable success in any attempt to extend the municipal ownership and operation of public utilities. This problem is no longer to be regarded as a theoretic one; it is now to be decided on grounds of practical expediency, and the question of expediency is very largely a financial one. Into it also enter the factors of public vigilance and the selection for office of men who have the requisite expert ability and honesty of purpose to manage great business enterprises. Municipal finance should, therefore, at the present time be studied with an eye to the possibility of successful municipal ownership of street railways, lighting plants, *etc.*

To pass over entirely the whole subject of the taxing system, which, in Ohio as in many other commonwealths,

[1] *The Financial History of Baltimore*, p. vii.

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reveals its worst features in the larger cities, the problems of state control versus "home rule" in matters of public debt and expenditure need more consideration than they are likely to receive at the hands of city officials eager to carry out vast schemes of public improvement. The degree of state supervision of municipal finance which is both practicable and desirable is a question also to be answered from a knowledge of actual conditions rather than on *a priori* grounds.

Finally it may be said that as a method of attacking the general subject of municipal government a study of the finances is most fruitful. "Budgets," it is accurately observed, "are the summary of the conditions and possibilities of municipal life." [1]

§ 3. *Methods followed.* The city of Cleveland may be regarded as typical of the rapidly growing urban centers of the Middle West and elsewhere. Its growth, while not so phenomenal as that of Chicago, has been remarkably rapid. By the census of 1900 it ranked as the seventh city in population in the United States, although in 1840 it had but 6,071 inhabitants. In its history there are few striking events. Changes which have taken place are very similar to changes that any normal community undergoes in passing from the small village of a few hundred people to a great commercial and manufacturing center with a population of half a million. The purely financial changes are almost without exception represented by a budget keeping pace with, or outstripping, growth in population and wealth, accompanied by an evolution in organization and administrative machinery, not wholly but for the most part, making for greater efficiency and economy. These

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developments are traced from decade to decade and from year to year so far as they are conceived to have any bearing on the more strictly fiscal problems. During the village period and even under the first city charter the financial relations are unimportant. Just when they do become important is as difficult to say as it would be to name the year when village conditions became city conditions. All that is attempted in considering the early decades is to give an outline of the financial system as a basis for the more detailed study of the later periods.

The method of presenting historical matter is primarily topical rather than chronological. To the writer this appears to serve better the purpose of tracing financial development. Historical discussion and statistical statements are supplemented by a certain amount of comparison with other cities.[1]

[1] *Cf.* § 48.

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CHAPTER II

Organization and Administration

§ 4. *The Village.* On the twenty-third day of December, 1814, the General Assembly of Ohio passed an act incorporating the Village of Cleveland. It provided for the annual election of a president, recorder, three trustees, a village marshal, a treasurer and two assessors. Corporate power was vested in the president, recorder and trustees, under the title "Trustees of the Village of Cleveland." To the trustees was granted power to purchase, receive, hold and convey any real estate or personal property for use of the village, provided the annual net income of such estate did not exceed $5,000. The president or recorder was given power to impose fines for violating ordinances of the village corporation. It then became the duty of the marshal to collect the fine and pay it to the treasurer. The trustees were authorized to regulate markets and streets, to remove nuisances and to "erect and keep in repair such public buildings or other works of public utility as may be deemed necessary or useful."

The taxing power was carefully guarded. Whenever "in their opinion it may be expedient" the trustees were authorized to levy an annual tax on all lots and other property subject to taxation for county purposes, provided that no tax on improved real property should exceed one per cent of its value, and provided also that the tax should be levied on all property in proportion to its value. The duty of ascertaining the true value of property belonged

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to the two elective assessors. Collection of taxes was entrusted to the village marshal, with power to sell personal property to satisfy a claim, and, in case no personal property was to be found, lots could also be sold. Moneys collected were paid to the treasurer, who could pay them out again only on the order of the trustees.

For nearly twenty years these simple provisions were adequate. In 1833 groceries were required to be licensed on petition of twelve householders.[1] By 1834 a need for public improvements began to be felt, but to secure them the financial powers of the village had to be enlarged. Important additions were accordingly made to the charter in the next two years. The trustees in 1834[2] were invested with power to levy a "discriminating tax" on all lands within the limits of the corporation to protect the village from the destructive action of the lake. Three non-resident freeholders were to be appointed by the common pleas court to make the assessment, which could not exceed $4,000 in any one year. A section of the same act for the first time gave the village authority to use its credit in borrowing money. The amount that could be raised in this way was not to exceed the tax of the current year. Another amendment in 1834 required all poll taxes[3] to be expended upon the roads under the direction of the trustees. The same act gave the trustees power to grade, level or pave streets and walks, "the expense to be borne by the whole city, *pro rata*, according to benefits thereto."[2] Five freeholders were to be appointed by the trustees to assess the benefits and costs of such improvements. This assessment the trustees could increase or diminish as became necessary, in like proportion for each individual. The trus-

[1] Act of February 25, 1833.

[2] Act of February 18, 1834.

[3] *Cf. infra*, p. 63.

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tees could order landowners to lay sidewalks, and if the order was not complied with, could have the work done and collect the cost by action of debt or by special assessment, —essentially the method used by the city at the present time.

Apparently the levying of a "discriminating tax" or special assessment was resisted. At all events it led to the appointment of what was doubtless the city's first board of equalization. In 1835[1] the amendment of the previous year was changed so as to provide such a board to act with the president and recorder of the village upon the complaint of any person injured by the action of the trustees in levying the grading tax of 1834. Awards of the board were in every case to be final. The same body was also authorized to examine the assessment roll of that year and make such amendments as were deemed necessary to secure justice and equality. The expenses incurred in the "grade of 1834" were still unpaid at the end of the following year. By a charter amendment late in 1835[2] new authority was given to assess on the property of the village a sum sufficient to cover all the expenses of these improvements on the same principle followed in the original assessment,—"according to the benefit accrued to the property assessed." That the village lacked the financial powers necessary became perfectly clear in these early attempts to make street improvements. In 1836 the village charter was exchanged for the first city charter.

§ 5. *The City Charter of 1836.* In 1836 the Village of Cleveland became the City of Cleveland by a charter secured in that year. Government was vested in a Mayor and Council, the latter consisting of three residents elected from each ward and one alderman for each ward elected at large. Both were elected for one year, although in 1841 the alder-

[1] Act of March 7, 1835.

[2] Act of December 17, 1835.

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men's term was extended to three years. The Council had custody and control of all real and personal estate, as well as the city's "rights and interests." Among its various duties it was to settle all claims and demands against the city and publish "accounts of receipts and expenditures . . . annually, for information."

At first the tax rate was unlimited. The Council appointed assessors and made provision for correction and equalization of assessments. Taxes were at the beginning collected by a city collector; in 1841 this function was transferred to the county treasurer. Publicly supported schools were for the use of white children only. Property of "black or mulatto persons" was, therefore, specifically exempted from taxation for school purposes. The city had power to borrow money to discharge debts "present and prospective" and to pledge the revenues and property of the city in payment. The ordinances necessary for raising loans required a two-thirds vote of the Council, to be entered on the journal; then after an interval of two weeks the process had to be repeated. The cost of improving streets and public grounds could be met by "discriminating assessments" in proportion to benefit. To allow filing of claims for damages notice of the improvement under consideration had to be published for six weeks.

§ 6. *Special Legislation.* The village charter and the charter of 1836 were granted in the form of special acts of the General Assembly. Other cities and villages in the state were organized in the same way, and were continually demanding changes and additional powers. By 1850 much the greater part of state legislation was of this special nature. To correct the abuses of unrestrained special legislation the Constitution of 1851 required the organization

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taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power." [1] The chief purpose of this restriction was to prevent municipal corporations from borrowing money to aid in the construction of railroads and other similar undertakings. In accordance with this provision of the Constitution the Legislature the following year passed the first [2] general municipal corporations act in the United States.

Limitations imposed on the financial powers of cities by the act of 1852 were too narrow. The rapidly growing urban communities were compelled to seek additional grants, which were made by laws general in form, but particular in application. Such a method had been made possible by the general act of 1852 itself which divided cities into first and second classes,—those having more than 20,000 population belonging to the first, and those of 5,000 to 20,000 to the second class.[3] Other classes were added from time to time and each divided into grades so that every important city of the state was in a separate class or grade. Cleveland for the greater part of the period was a city of the second grade of the first class. The bulk of the legislation relating to Cleveland which we shall follow in the course of this study was thus general in form but special in application.

Only two marked changes were made by the act of 1852 in the organization of the municipal government of Cleveland. One was the abolition of the Board of Aldermen, as provided in the charter of 1836; the other was the establishment of a separate police court. Previous to this time the duties of police magistrate had been performed by the Mayor.

[1] Art. xiii, § 6.

[2] Professor J. A. Fairlie, *Municipal Administration* (New York, 1901), p. 87.

[3] § 41.

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§ 7. *The Board System.* From 1852 to 1891 Cleveland was governed under what is known as the "board system." Toward the close of the period decentralization reached its height, causing a reaction which brought about the "Federal Plan." The Board of City Improvements was probably the most important administrative body in the organization that followed the new charter in 1852. Upon it devolved duties previously performed by council committees, relating to bridges and other public works.[1] The Board of Improvements introduced at this time proved to be a distinct step in advance; it served to put a check upon ill-considered plans for public improvements. More important was its function in developing a system of special assessments to pay for purely local improvements, affording a much-needed relief to the general fund.[2] In 1861 the composition of the Board of Improvements was changed and its duties enlarged. It now consisted of the Mayor, the Civil Engineer, the chairman of the council committee on streets and one street commissioner elected for two years.[3] In all matters of public improvement and repairs the power of the Board became absolute in 1868. It was given "supervision, care and control" of lighting, cleaning, improving and repairing streets, public grounds, public wharves, landings, markets, bridges, *etc.* The city council acted on assessments, sanctioned improvements and repairs, and sold or leased city property only on recommendation of the Board of Improvements.[4] A new Code in 1869 continued the Board with much the same duties and powers as before. Work and expenditures under its control were separated

[1] *Cf. The Daily Herald*, April 11, 1853.

[2] Annual Message of the Mayor to the Council, year ending April 9, 1856, p. 7.

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into three divisions: (1) all new improvements were made under the direct supervision of the engineer; (2) repairs and cleaning of streets, sewers, *etc.*, belonged to the street department; (3) other expenditures were controlled directly by the Board. Until 1875 the council committee on harbors and wharves had charge of bridge tenders and to some extent controlled bridge repairs. After 1875 the municipal code made it the duty of the Board of Improvements to care for the bridges of the city.[1]

The Code of 1869 carried still further the plan of substituting administrative boards for council committees. Out of eleven boards created four were elected, four appointed by the mayor and council; one was appointed by the council alone and two were largely made up of *ex-officio* members.[2]

As early as 1876 the efficiency and economy of the board system began to be called in question. Fifteen years elapsed, however, before a change was effected. In his annual message to the Council in 1876 Mayor Payne voiced the feeling of all students of municipal government:

> It is a question of serious doubt whether the different branches of municipal government can be as well and economically managed by boards the principal part of whose functions are performed independently of the executive and legislative branches of the government, even though a majority of them may be elected by the people. In the executive and legislative branches of the government is generally lodged the highest municipal authority, and upon them rests the responsibility for its proper management. They therefore see to it that the general revenues are equitably distributed among the departments

[1] Report of the Board of Improvements. *City Documents*, 1875, p. 448.

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and seek to secure economy and efficiency in all, while a board in absolute control of a department has no concern except for successful management of that particular branch, and, to effect this, with no improper purpose, it will often work to the prejudice of all others.[1]

These utterances were aimed especially at the Board of Police Commissioners and the Board of Education. Under the Police Commissioners' Act the former possessed quite independent financial powers. It made yearly estimates to be certified by the City Auditor and presented by him to the Council, which was obliged to provide for any estimate so made.[2] Under the act of 1873 the Board of Education was a corporation wholly independent of the city. It had full authority over the tax levy for school purposes, could issue bonds on its own account, and could manage and dispose of all school property without council action.[3] These independent boards were a constant challenge to both Mayor and Council.

A special investigating committee of the Council in 1878 emphatically declared that "spasms of reform" would not save the city from drifting "into irretrievable bankruptcy;" a "board of control" should be established to place the affairs of every department on a "strict business footing."[4]

In 1878, also, Mayor Rose called attention to the dangers lurking in the system and recommended legislation that would place in the hands of the Council the ultimate power to determine the amount of taxes to be levied for the maintenance of each and every department of the city government.[5]

[1] *City Documents*, 1876, p. 29.

[2] Act passed March 27, 1876, 73 O. L., 55.

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Much concern was felt on the part of the city administration because the expenditures of the Board of Education in 1878 had exceeded its receipts by a little over $12,000. The portion of the Mayor's message relating to the public schools was referred to the proper committee with instructions to prepare and submit to the Council for further action a bill to be presented to the next Legislature for the correction of the evils so apparent.[1]

The organization of various other boards constituted a serious obstacle to a consistent financial administration. The Cemetery Board, The Fire Board, The Board of Health, the infirmary and out-door relief board, the Board of Improvements, the Park Board, the Water Works Board, the board in charge of the Workhouse and the House of Refuge and Correction all stood in varying relations to the city government. The powers and limitations of the different boards were not well understood; the council and city officers, as well as citizens, often found themselves in doubt as to what constituted legal transactions. Moreover, any complete exhibit of city finances was practically impossible. From the point of view of financial administration it was highly desirable that the powers of all boards should be uniform in fixing salaries of employees, in the custody and disbursement of money, in creating liabilities against the city, in approving claims, and in the purchase and management of real estate.[2] The relief sought was not speedily secured. In 1886 Mayor Gardner again took up the question. He declared that the method of governing the city had not kept pace with its growth; no adequate machinery had been evolved to meet the great responsibilities due to enlargement of territory and growth of population; council commit-

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tees having personal charge of the city's interests had been replaced by numerous boards with every degree of independent power.[1] Responsibility was divided and financial loss constantly entailed. Mayor Gardner's conclusion was that

> The logical way to provide safe and good service is to formulate a plan so that the entire interests of the city may be brought together, under a central head, where accountability and responsibility may be fixed. There should be a concentration of municipal machinery. If we were to abolish all boards and place responsibility for department management with a reduced number, who should be required to meet so often as may be necessary to afford all a thorough understanding of the proceedings in the several divisions, I am confident a great stride forward would be made. Duplicate help and work would thus be avoided. I believe that under these circumstances prices for supplies and work could be made uniform and expenses materially reduced in every department and branch of government. Payments for all services, materials, and supplies should be made by the city treasurer solely upon warrants drawn exclusively by the city auditor. To the treasurer also should be paid all the money due the city. All the various departmental heads should be accountable to one authority. We would then have the utmost simplicity combined with clearly defined responsibility and accountability, reducing municipal expenses and losses to a minimum.[2]

Again the Council took action. A resolution was adopted looking toward legislation that would place all boards of the city under control of the Council. Time was not yet ripe, however; the change desired was delayed five years more,

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but was secured in 1891 in the so-called "Federal Plan." The Board of Control in the new centralized system perpetuated in name only the old methods.

§ 8. *The Federal Plan.* The "Federal Plan" of government was first definitely proposed by a Committee of the Board of Trade early in 1889. Mayor Gardner's idea of abolishing the official boards and substituting a number of departments, each controlled by a single director to be appointed by the Mayor, was revived. Both the Mayor and the directors were to have power to remove their own appointees. But the recommendation of the Board of Trade went one step too far to meet with sufficient favor to secure its adoption. It proposed to make the schools a department of the municipal government, with a director appointed by the Mayor at their head. Other objections were also raised. The council committee appointed by the Mayor to meet with the Board of Trade condemned the proposition on the ground that to vest in the Mayor the absolute power of appointment and removal would result in making of the city government, including schools and police and fire departments, a mere political machine, subject to successful manipulation by scheming individuals and private corporations. Aside from these political objections the council committee declared the plan proposed would not diminish the expenses of the city. It therefore proceeded to draw up a bill of its own to secure the improvements generally agreed upon as essential. The principal change recommended was the abolition of the Board of Aldermen [1] and the adoption of a requirement that ordinances and resolutions involving the expenditure of money or granting of franchises should not be passed until at least a week after being introduced and read in council. It is evident that the Council desired a reform, but not a reform which would

[1] *Cf. infra*, p. 33.

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continue to lodge a high degree of power in other hands. "The main defects in the present system," it was asserted by the Committee, "are that the separate boards are too independent of the Council;" the members of the more important boards should be appointed instead of elected.[1] In March a motion to put the question of remodelling the city government to a vote of the people at the April election was laid on the table.[2]

At last the Federal Plan became a possibility through a bill "to provide a more efficient government for cities of the second grade of the first class," passed by the General Assembly, March 16, 1891.[3] The law became effective April 6th and the Council at once proceeded to pass the ordinances necessary to the reorganization of the whole municipal government. Few experiments in city administration in the last two decades have attracted so much attention as Cleveland's Federal Plan. Its general features are well known. Inasmuch, however, as one of the main purposes in its adoption was to secure greater economy in the cost of administration,[4] an outline of the methods is in order here.

The Council consisted of two members elected from each of ten districts, of which they had to be residents, for a term of two years. Members were allowed a salary of $5 for attendance at each regular meeting. The financial powers of the Council were greatly increased. An ordinance, resolution or order involving expenditure, making a contract, granting a franchise, levying a tax, fixing water rates, *etc.*, could not be passed until at least a week after it was introduced.

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To the Council was given the power of fixing the compensation of the chief of the fire and police departments, as well as of subordinate officers, patrolmen and firemen. It also appointed the health officers and fixed their compensation. Power to assess a water rent sufficient to conduct the waterworks was lodged in the legislative body. Perhaps the most marked feature of the new plan was the division of the executive function into a half dozen departments each headed by a director appointed by the Mayor with the consent of the Council. Directors' terms were to end with that of the Mayor appointing them. It is apparent that a high degree of unity and centralization could thus be obtained. The Mayor, together with the heads of the six departments, formed a Board of Control to which was transferred the powers and duties of the old Board of Improvements and Commissioners of Sewers.

Among the first departments to be organized was that of Public Works. To its Director was transferred the duties previously vested in the Trustees of the Water Works, the Park Commissioners, the Platting Commission, the Street Commissioner, and the Civil Engineer. Three subdivisions were created,—the Water Works forming the first; repairing and cleaning of streets and public grounds, the second. Each was in charge of a superintendent appointed by the Director of Public Works. The third subdivision, in charge of the Chief Engineer, was responsible for streets, sewers, public buildings, harbors and wharves.[1] The Department of Police was concerned with all matters relating to public health, food inspection, markets, city scales, and weights and measures, in addition to the police department proper.[2] The Director of Fire Service assumed the duties of the

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Board of Fire Commissioners. The Department of Law remained practically unchanged, its Director now being styled Corporation Counsel. Powers and duties previously in the hands of the Board of Workhouse Directors, Board of Directors of the House of Refuge and Correction, the Trustees of Cemeteries and the Board of Infirmary Directors were assumed by a Department of Charities and Correction. The title of the Director of the Department of Accounts was changed from Comptroller to City Auditor [1] and the office of chief clerk created. The reorganization of the Department of Accounts had in view the supervision by one person of all public accounts in the city. The Sinking Fund Commission, Depositary Commission, Annual City Board of Equalization, Decennial Board of Equalization and Board of Tax Commissioners were continued as under previous laws. All officers were put on a salary basis. The Mayor received $6,000 and the heads of departments $4,000, with the exception of the Corporation Counsel who was paid $5,000. All legally established fees and perquisites had to be paid into the city treasury to the credit of the general fund, unless other provision was made.

With unimportant changes reforms thus heroically introduced remained in force until Cleveland's government, along with nearly every other municipal government in the state, was in 1902 declared by the Supreme Court to be unconstitutional. A period of eleven years should be long enough to furnish a thorough test of the efficiency of the Federal Plan. Whether in fact economy of administration resulted it is not perfectly easy to say. In a later chapter dealing with expenditures we shall take up this question. The

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with the people of the city and the reluctance with which it was exchanged for the form provided in the Code of 1902 testify to its general efficiency.

§ 9. *The Code of 1902.* In 1902 the constitutionality of the Federal Plan was attacked and a long line of decisions sustaining such special legislation definitely set aside.[1] Execution of the decision invalidating the government of almost every municipality in the state was suspended until an extraordinary session of the Legislature could provide constitutional governments for them. While the new code brings back to Cleveland the old board plan, the form is less objectionable than it was before 1891. For the state as a whole it represents a larger degree of local autonomy. For Cleveland it was a distinct step backward. "This Code," said Mayor Johnson, "illy drawn and devised to aid and foster corruption and graft, has been a mighty opportunity for wrongdoing and an obstacle to progress."[2]

It is specifically provided that the powers of the Council shall be legislative only and that no administrative duties whatever shall be performed by it. It has the power to fix bonds and salaries, except in the Department of Public Service, but has not the power either of appointing or confirming city employees, aside from those in its own immediate service. In respect to contracts the Council merely grants authority to the proper board and makes the necessary appropriation. The chief administrative authority is the Board of Public Service which consists of three[3] members elected for a term of two years. To it is given the supervision and improvement of streets and sidewalks, and the

[1] State *v.* Beacom, 66 O. S., 491.

[2] *Annual Reports*, 1904, p. 7.

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control of lighting, bridges and sewers. It has charge of all municipal industries and manages public buildings and property. This board also has the management of the city's charitable and reformatory institutions. It is subject to the authority of the Council only in the matter of expenditure. The Board is the chief employer of labor for the city and is required to fix the salaries of its employees, a power which experience in Cleveland seems to show should have been given to the Council.[1] Another administrative board provided by the new Code is known as the Board of Public Safety. It consists of two or four persons appointed by the Mayor for four years. This board succeeds the Director of Police and Director of Fire Service. It makes all contracts for acquiring lands, erecting buildings for the use of fire and police departments, and for securing all necessary supplies and equipment, subject to the $500 rule. It cannot sell city property without the authority of an ordinance of the Council.[2]

§ 10. *The Council.* The most important aspects of the legislative department of the city have already been touched upon. Under the first charter the Council had large financial and administrative powers. Its various functions were performed in person by numerous committees. Under the charter of 1852 administrative boards displaced council committees and in many cases came to exercise quite independent power. With the Federal Plan certain prerogatives of the Council were restored. Its financial powers under the general law of 1902 remain practically unchanged.

It remains to note briefly certain other changes, especially in regard to its form, through which the legislative body has passed. From 1836 to 1852, while consisting of a single chamber, it had two kinds of members,—coun-

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cillors, elected by wards, and aldermen elected at large. The charter of 1852 abolished the office of alderman. Financial difficulties constantly experienced were traced, as we have seen, to the presence of independent and self-seeking boards. While the mayors and succeeding councils to restore order were demanding concentration and greater powers for the Council the General Assembly in 1885, in spite of the solemn protest of the City Council,[1] created a Board of Aldermen.[2] This second chamber was composed of nine members, elected from as many districts for a term of two years. The number of councilmen was reduced to one member from each ward, elected also for two years. The usual provisions in bi-cameral bodies were present. A change was made in the law in 1887,[3] increasing the number of aldermen to fifteen and reducing the number of districts to three. Though doubt existed as to the legality of the powers conferred upon it by law,[4] the Board of Aldermen continued until abolished by the Legislature in 1889.[5]

§ 11. *The Auditor.* The office of City Auditor seems to have been created first in 1854, when the annexation of Ohio City caused a large increase in municipal business.[6] For several years, however, the Auditor was little more than a bookkeeper, recording transactions over which he had no control. The office did not assume first-rate importance until about 1880 and not until the law of 1889 did he come to have real control over the city finances. New duties were

[1] *Council Proceedings*, March 23, 1885.

[2] Act passed April 3, 1885, 82 O. L., 111.

[3] Act of March 19, 1887, 84 O. L., 125.

[4] *Proceedings of the Board of Aldermen*, April 22, 1887.

[5] Act of April 13, 1889, 86 O. L., 277.

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added from time to time and it was not always easy to say exactly what the various functions of the Auditor were. In 1882 the Council, apparently in doubt as to the scope of his powers, required of the Auditor a statement of his chief duties as prescribed by the laws and ordinances. His report in response to the council resolution separated his duties into ten divisions, as follows: (1) to keep all city accounts; (2) to supervise the fiscal affairs of the city, the collection of revenues and the settlement of claims; (3) to audit all claims and draw all warrants for payment; (4) to prepare all claim ordinances and preserve evidence of payment; (5) to keep registry of all bonds and other obligations issued; (6) to file and preserve all cancelled bonds, coupons and other obligations; (7) to certify to the Council the condition of each fund; (8) to make all special and district assessments; (9) to make quarterly and annual statements of the financial condition of the city; (10) to prepare annual estimates of the expenses of the ensuing year.[1]

The Auditor in Cleveland has usually been appointed by the Council, a method which has the sanction of the best authorities.[2] An act of the Legislature in 1889[3] created the office of Comptroller and prescribed his duties. He was to be appointed by the Mayor for a term of three years, without reference to the Council, and could also be removed by the Mayor if found incompetent. In addition to the usual duties of keeping the city's accounts and auditing all accounts in which the city was concerned, the law of 1889 gave the Comptroller power to prescribe the accounting methods of all departments of the city, as well as the form in which their reports were to be made to him. Each de-

[1] *Council Proceedings*, February 20, 1882.

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partment was required to report daily all moneys received and the disposition made of them. The Comptroller by this law was held strictly to account for all warrants drawn; he or his sureties were liable for any amount paid out contrary to law and ordinance. The Federal Plan of 1891 repealed the act of 1889, but practically re-enacted it as the law governing the Department of Accounts,[1] and changed the title "Comptroller" back to "City Auditor." He was now appointed by the Mayor with the consent of the Council for a term not exceeding that of the Mayor appointing him. With the reorganization of school government in 1892[2] the City Auditor became auditor and disbursing officer of the Board of Education and kept all school accounts in his office. The School Code of 1904 transferred the school accounts back to the office of the Clerk of the Board of Education. Under the Federal Plan, also, the City Auditor became auditor of the Library Board and this plan is still followed. The Auditor's powers and functions remain practically unchanged under the Code of 1902. He is now elected, however, for a term of two years.[3] In prescribing forms for accounts and reports he must keep within the provisions of the uniform accounting law of the state.[4] It is still his duty to prevent any appropriation from being overdrawn and the amount appropriated for one purpose from being used for any other. Every ordinance involving expenditure, before it becomes effective must be accompanied by the Auditor's certificate that there is sufficient money in the treasury to the credit of the fund from which the expenditure is to be made. The Auditor also has important duties in making up the annual budget and the half-yearly appropriation ordinance.

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§ 12. *The Treasurer.* The office of Treasurer dates from the first village charter. Its duties and responsibilities have kept pace with the growth of the city, although they have not changed in character as have the duties of Auditor. Without exception, apparently, the Treasurer has been elected by popular vote, the term usually being two years. As compared with the Auditor the duties of the Treasurer are simple; it may almost be said that any honest business man is competent to fill the position.[1] Although many years ago the Treasurer's duties were specified by the Legislature,[2] they have not been enlarged and defined from time to time as in case of the Auditor. He has the usual duty of keeping an account of receipts and disbursements, maintaining separate accounts for the various funds and specific appropriations. The Code of 1902 requires the Treasurer to keep a separate account with each fund for which taxes are levied.[3] It also makes the City Treasurer custodian of the school funds. The same provision is made in earlier statutes and no compensation allowed for the service.[4]

Various methods have been used for paying the Treasurer. From a pure fee system change was made to a nominal salary to which he could add—indeed was obliged to add—through interest on public money in his hands. Being required to give bond for hundreds of thousands of

[1] Qualifications for the office have, nevertheless, changed somewhat since 1850. In reference to a candidate for city treasurer in that year the editor of a daily paper says: "Mr. ——— has all the qualifications requisite for a good treasurer, is an honest, hardworking mechanic, and last season met with a severe accident by which he was disabled from laboring at his trade. We trust the electors of the city will remember with their votes the good citizen and very deserving man" (*The Cleveland Daily Herald*, March 2, 1850).

[2] Act of May 7, 1869, 66 O. L., 174. [3] § 41.

[4] Eshelby *v.* Board of Education, 66 O. S., 71.

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dollars, in addition to paying his own clerk hire, it was understood that the Treasurer should receive some return in addition to his salary. The law forbidding deposit of public moneys in banks was constantly and openly ignored; and in point of fact it was much safer to deposit funds in banks than to keep them in the City Hall. The enactment of a depositary law [1] put the office wholly on a salary basis, making it much less lucrative. It may still be used, however, as a reward for party loyalty and political service and will probably continue to be elective so long as it is necessary to make some concession to erroneous ideas of popular government.

In the history of the city but one flagrant breach of trust on the part of a treasurer has occurred—the so-called "Axworthy Defalcation." Mr. Axworthy, who had held the office for three years, in 1888 left the city defalcating to a large amount. At the time of his departure nearly half a million dollars of the city's money was, contrary to law, on deposit in his name in various banks. These deposits were recovered and the bondsmen of the Treasurer forced to pay over to the city $279,413 in addition to the costs of litigation.[2] The surety bond required of the Treasurer has been increased by the Council from time to time and is now larger than that of any other officer, the annual premium being $600. Specifically as an aid in meeting this expense $500 has been added to the salary of the office.

§ 13. *School Administration.* Prior to the charter of 1836 Cleveland had no public school system. Educational problems, few and unimportant, were dealt with directly by the Council. The first step in the organization was

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made in 1836[1] by the appointment of a Board of School Managers of five members. Schools then supported by the city accommodated less than half the school children. By ordinance of July 7, 1837, the public school system was established. A school committee of the Council was authorized to coöperate with the Board of School Managers in providing the necessary buildings and equipment. This method was followed until 1853, when a Board of Education was appointed by the Council with authority to elect a superintendent. The Board consisted of one member from each of the seven wards, but was increased in 1854 to eleven members by the annexation of the four wards of Ohio City. It had but slight control over the school fund. Without the specific authority of the Council it could not incur an expenditure of more than $50 for tuition or maintenance or any other purpose; larger expenditures were made directly by the Council, usually upon the recommendation of the Board.[2] By an act of the Legislature in 1859[3] the Board of Education was for the first time elected by popular vote; the Council and the Board now held the same relation to the people. The latter was, however, still subject to the Council in important particulars. While it was required annually to certify to the Council an estimate of the amount deemed necessary for school purposes, the Council could increase or diminish the levy as it saw fit, within the limits prescribed by law. In the matter of expenditure the Council retained the same power it had when it appointed the Board. In the eyes of the law it was still the Council upon which was laid the duty of providing the means for a common school education. A much greater degree of indepen-

[1] October 5, 1836.

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dent power was bestowed upon the Board of Education in 1868.[1] It could now levy taxes without restriction by the City Council, was constituted a body corporate, and given full control over ordinary expenditures; but in one respect it was still under restraint. The purchase of real estate and the erection of buildings was controlled by the Council on the recommendation of the Board of Education. If the Board's recommendations were approved, it was incumbent on the Council to provide the necessary funds as soon as possible. A school construction fund was established for this purpose. The Council drew up specifications, advertised for bids and let contracts in the name of the city of Cleveland; the Board of Education then supervised the work. Unsatisfactory as this relation of city and school authorities soon proved to be, it was hailed by the Board of Education as a reform long since needed. Restrictions on its authority had been such that it felt itself to be a mere committee of the Council, able to recommend, but without authority to enforce measures. In the management of a school system embracing 160 teachers and 10,000 pupils the Board was embarrassed by the necessity of going to the Council whenever an expenditure of $50 was required. This lack of financial control led to the wider separation of schools from other departments of the city government in 1868. The immediate occasion for the change was found in a misuse of school funds by the Council. In reply to demands of the Board the Council insisted that the school fund was insufficient. An investigation followed which revealed that more than $48,000 had been borrowed from the school fund and never returned.[2] The

[1] Act of April 14, 1868, 65 O. L. 226.

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greater responsibility now laid upon the Board secured, it was claimed,[1] a higher degree of caution in its action and a more judicious expenditure.

Complete separation of the Board of Education and City Council was effected by the codifying act of 1873.[2] School property of all kinds was now vested in the Board of Education; it was given full power to purchase sites and build schoolhouses. Except in cases of "urgent necessity," in incurring an expenditure exceeding $1500 a prescribed form of competitive bidding was required. This complete independence of the Board of Education, as we have seen, was a constant challenge to the Mayor and Council from 1873 until the inauguration of the Federal Plan. Apparently no difference was recognized between the Board of Education and the numerous other boards whose independent powers it was sought to curb in the interest of efficiency and economy.

As first proposed the Federal Plan included the school system; but the scheme adopted made no change in this respect. The year following the adoption of the new city government the school organization was modelled after it. By an act of the General Assembly[3] legislative and executive departments were separated.[4] The Board of Education was made to consist of a School Council and a School Director. Power to provide for the appointment of teachers

[1] *Thirty-second Annual Report of the Board of Education*, 1868, p. 15.

[2] Passed May 1, 1873, 70 O. L., 195.

[3] Passed March 8, 1892, 89 O. L., 74.

[4] The necessity for improved business methods is forcibly stated by the President of the Board of Education in 1885 (*Thirty-ninth Annual Report*, p. 27). "The Board's methods of doing business are still those that grew up when Cleveland was a small city. They are such as are

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and employees and to fix their compensation was vested in the Council. It approved contracts involving an expenditure of more than $250; expenditures of less amounts the Director made on his own responsibility. The Council itself was guided by a legal procedure in matters of construction or repair costing more than $1500. The Director was the executive officer of the Board, took part in its deliberations, but had no vote. On all matters involving expenditure, the holding and transfer of property, or levying of taxes, the Director had a veto on the action of the Council, although a two-thirds vote passed a measure over his negative. The Superintendent of Instruction received his appointment at the hands of the Director, subject to the confirmation of the School Council. All employees of the Board were also appointed by the Director, with the exception of assistant superintendents, supervisors, and teachers. Warrants issued by the Director of Accounts for the payment of money from the school funds required the approval of the Director, except for the payment of teachers.

The chief objects aimed at in the reorganization in 1892 were to keep the schools out of politics and secure an efficient and responsible business administration, as well as a superintendent of instruction with permanent tenure and full authority in his department. During the dozen years of its operation the success of the plan was most conspicuous. Cleveland's school organization, as well as its unique plan of city government, had been secured by special legislation and was reluctantly surrendered in the reorganization of Ohio municipal corporations under general laws. Fortunately the new School Code adopted by the Legislature in 1904 [1] followed to a large extent the Cleveland plan.

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large and two by districts. The office of Director, as executive head of the school system, is made optional, and is, of course, retained in the Cleveland organization. He is now elected by the Board of Education, however, instead of by the people. His salary remains unchanged, namely, $5000 per annum. To the Director is given "care and custody of all property of the school district, real and personal, except moneys." With the exception of the Clerk of the Board, the Superintendent of Instruction, assistant superintendents and teachers, he appoints all employees, subject to confirmation by the Board, and may discharge them. The change most to be regretted is in the office of superintendent, who is appointed by the Board with a maximum term of five years. He appoints teachers, but his appointments must be confirmed by the Board. The responsibilities of the latter are in many ways increased.

§ 14. *Library Administration.* The Library Board, an outgrowth from the Board of Education, has also acquired independent financial powers. By the authority of an act of 1867 [1] the Board of Education in 1869 opened a School Library and in 1871 [2] created a Board of Managers. Members of the new Board served for two years. The President of the Board of Education acted in the same capacity for the Board of Managers of the Public Library. From time to time the Board of Education appropriated a sum, including unexpended balances, not exceeding $500. This the Board of Managers could spend without further authorization, merely being required to keep an account of expenditures and report once a quarter. In 1873 the Board of Managers was replaced by a standing committee of the

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of the public library was vested in a Library Committee, appointed by the Board of Education. This method is still followed, the Library Board of seven members being appointed by the Board of Education.

§ 15. *The Fiscal Year.* We now turn to a somewhat more detailed study of the financial administration of the city. The duties and powers of the chief administrative officers have already been stated. In the following sections we shall discuss the methods by which their functions, especially those of Auditor and Treasurer, are carried on.

Among the cities of the United States the limits of the fiscal year show a great variation. As a rule, a difference also exists between the fiscal years of different departments of the same city. During the period of the first charter the city accounts were closed about the middle of March each year. After 1852 the year ended March 31st. In 1872 a state law [1] provided that the fiscal year in cities of the first class should end on the thirty-first of December and this date is still preserved. Accounts must be closed on that day and the annual reports required must be made for a period terminating at that date.[2] For the schools of the state August 31st closes the year. The fiscal year of the Library Board corresponded with the school year until 1899; beginning with 1900 the dates required of the city government were adopted. A year ending December 31st also has the advantage of uniformity with the prevailing practice in public libraries. While the reason for this variation is evident, uniformity seems highly desirable. That the condition in Ohio is not unavoidable is shown in the fact that New York, Boston, Pittsburg, Washington, and other large cities close the finances of all departments on the

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same date. The confusion in Ohio cities, however, is not so bad as that in many municipalities where as many as five different fiscal years are employed.

§ 16. *The Budget.* Total lack of anything like the modern budget characterized the first half-century of the city's history. Specific levies were made for the most important departments and upon the probable income from these levies the various boards and officers having the power to expend money had to rely. As the important objects of expenditure grew in number it was obviously impossible to provide for each by a separate levy. For many years previous to 1873 a large number of funds annually showed a deficit,[1] which was funded and the process repeated. The law positively required that no warrant should be drawn on a fund the resources of which were exhausted; but the provision had been consistently violated, the reason being that in the absence of any budget no department knew what would be allowed for its support. Doubtless this was insufficient excuse for recklessly spending more than could be set aside for any particular purpose, but the board system was well calculated to force the Auditor into borrowing from funds which showed a surplus in order to care for the deficit in others. In 1873, however, the Auditor sent to the Council a statement of the estimated income for the expenses of 1874 with its apportionment to the different departments, and gave warning that the law would be obeyed.[2] With difficulty this resolution was maintained

[1] In his message for 1873-4 the Mayor said: "This custom of overdrawing funds, which seems to have become a part of our municipal policy, simply means unrestrained and promiscuous expenditure of all the money in the city treasury to pay running expenses, utterly regard-

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and seems to have marked the beginning of a real budget. Still for a period of years we find only what may be called a tax-levy budget. It was the duty of the Auditor to report on the amount necessary to meet the expenses of the city for the next fiscal year;[1] on his report the tax levy was based. As late as 1889 estimates received from the various departments were for gross amounts and the appropriations were made in the same way. Such a method undoubtedly led to extravagant expenditure.[2] An act passed in 1890[3] gave substantially the present budgetary methods of the Municipal Code. The Council was required by the first week of each fiscal half-year, to make "detailed and specific appropriations for the several objects for which the city has to provide, apportioned to each month, of the moneys known to be in the treasury, or estimated to come into it during the six months next ensuing." "Expenditures for the next six months had to be kept within the appropriations, and balances left over at the end of the year unexpended were to be recredited to the funds from which they were taken."[4] The result was such that the Mayor could say in 1893 regarding the preceding year: "For the first time in the history of the city the books of the department of finance show a balance to the credit of each and every fund and this without advances having been made from the taxes of the succeeding year."

At present the tax-levy ordinance is known as the "Mayor's Annual Budget of Current Expenses." As it is in form and substance an annual budget of expenditures it may be discussed at this point, rather than under the sec-

[1] *Revised Ordinances*, § 246. *Proceedings of the Board of Aldermen*, April 29, 1889.

[2] Message of Mayor Gardner, *Annual Reports*, 1889, p. xii.

[3] Act of April 28, 1890, 87 O. L., 342.

[4] *Cf.* Wilcox, *op. cit.*, p. 454.

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tion dealing specifically with the revenue system. Under the Municipal Code the heads of the various departments are required, on or before the first Monday in March, to furnish the Mayor and Auditor an itemized estimate of the amount of money needed for their department during the next fiscal year.[1] The next step in the procedure for making the tax levy is a statement furnished by the Auditor to the Mayor and each member of the Council, showing the balances and monthly expenditures of each fund during the preceding year; also, the annual expenditure from each fund for each of the five fiscal years immediately preceding, as well as the average monthly expenditure from each fund for the preceding year and the total monthly average from all the funds for the preceding five years.[2] On April first it is the duty of the Mayor to submit the annual budget of current expenses to the Council. The Council may then omit or reduce any item, but cannot increase the total. In making up the budget the Mayor has power to alter any item in the estimates furnished by the officers, but he cannot increase the total of any estimate before submitting it to the Council.[3] After examining and revising the budget as submitted by the Mayor, the Council passes the tax-levy ordinance to provide the revenue required.[4] This ordinance is then submitted to the Board of Tax Commissioners, which is required to examine and return it to the Council within ten days, approving or rejecting the whole or any part; it may also make any suggestions it desires. In case of rejection reasons for disapproval must be given. Any part rejected by the Commission does not become valid unless again passed by the Council by a three-fourths vote of all its members. Approved by the Commission, the ordinance becomes valid and legal, as it does also if not re-

[1] § 35. [2] § 36. [3] § 38. [4] § 39.

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turned within ten days.[1] This section of the legal procedure, however, has no significance in Cleveland; the Tax Commission approves the ordinance as a pure formality, not having the necessary familiarity with the subject to warrant criticism or rejection. As approved by the Tax Commission the ordinance is presented to the Mayor for his signature, as are all ordinances, and it requires the same publication as other ordinances. On or before the first Monday of July the Council certifies the levy to the County Auditor.

The tax levy of 1906 for the expenditure of 1907 makes for "municipal purposes" a levy of 9.65 mills, divided into four parts,—.25 mills for General Purposes, .45 mills for Public Health, 4.05 mills for Public Safety, and 4.9 mills for Public Service purposes. Special levies for Sinking Fund and interest, and pension funds bring the total up to 14.40 mills. Accompanying the tax-levy ordinance and printed as a part of it is the Mayor's Budget, giving an itemized statement of the resources and estimated disbursements of the General Fund, the Public Health Fund, the Public Safety Fund and the Public Service Fund. For each item in all the funds the amount expended in 1905, the amount expended in the first half of 1906, the amount appropriated for 1906, the department estimate for 1907, and the revised estimate for 1907 are given in parallel columns. The latter is the result of revision done in the Auditor's office. The department estimate is reduced in each case, except for the General Fund, in which it is raised in the revised estimate; for the Health Fund the estimate is reduced thirty per cent, while the others suffered a seven to ten per cent reduction. Although called a budget for current expenses, a certain amount of expenditure for outlay is included, the distinction being indicated by the headings "ordinary" and "extraordinary."

[1] §§ 39, 49.

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The Mayor's Budget, upon which the tax levy is based, is put into effect by the semi-annual appropriations. At the beginning of each fiscal half year the Council is required to make appropriations for carrying on the functions of the corporation for the six months following. Expenditures must not exceed appropriations thus made.[1] To provide for an unforeseen emergency in any department the Council has authority to set aside any amount it desires as a contingent fund, from which transfers may be made to other funds.[2] The appropriation ordinance itself is a document of no less than thirty quarto pages; for the fiscal half year ending December 31, 1906, it consists of fifty-five sections. The arrangement of funds according to departments and functions corresponds with the Mayor's budget. On the lefthand page is printed in red the estimated resources for the last half of 1906, consisting of the cash on hand and receipts from taxes and miscellaneous sources. On the page opposite, the appropriations for the first half year and the proposed appropriations for the last half year are printed in parallel columns. Each class of expenditures is itemized in detail,—in the chief divisions of the Department of Public Service under four headings: (1) fixed charges, (2) furniture and fixtures, (3) supplies, (4) permanent improvements. In other funds the division is between ordinary and extraordinary as in the Mayor's Budget. A number of sections are added authorizing a transfer of money from one fund to another. The balance of an appropriation remaining unexpended at the end of the half year reverts to the fund from which it was taken and must again be appropriated. After its first reading the ap-

[1] § 43.

[2] The phrase "unforeseen emergency" has been strictly interpreted by Ohio courts. *Vide* citations given by Wade H. Ellis, *Ohio Municipal Code* (Annotated edition, 1904), p. 169.

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propriation ordinance is referred to the committees on Appropriations and Finance and to the City Auditor and the City Solicitor. The Auditor certifies that there is money in the treasury which, with the revenue in process of collection and anticipated proceeds from the sale of bonds, is sufficient to meet the appropriations contained in the ordinance. The Solicitor certifies that there is no legal objection to its passage. Being made up with great care item by item, the Council, although it has legal power to do so, is seldom able to make amendments.

§ 17. *Checks on Expenditure.* The budgetary method is designed to place a check upon ill-considered and unwise expenditure and to secure a just and equitable distribution of the revenues of the city. Prior to the development of the budget and along with it other checks upon expenditure have been employed. Chief among these are the rules governing the Council in matters involving money obligations.[1] The four years' bi-cameral experiment from 1885 to 1889 had this end in view. The restriction placed upon the power of individual officers and departments to enter into contracts has the same purpose. An act of 1890[2] made it illegal and punishable by fine and imprisonment for "any officer, councilman or member of an executive board to contract or vote to contract or to incur any expense or liability whatever, beyond the amount regularly and lawfully set apart for the department concerned."

[1] In his inaugural address in 1847 the Mayor called attention to the lack of suitable checks in the making of appropriations and allowing claims. By the city charter "four members of a bare quorum of seven," he says, "may, by simple resolution, or vote on claims preferred, thrust their hands ever so deep into the treasury." To serve as a check he

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The new Municipal Code, following previous laws, requires [1] that before any contract or agreement is entered into or any ordinance or resolution passed involving expenditure, the Auditor must certify to the Council that there is money in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose.[2] Unless the money is in the treasury when the ordinance is passed it cannot take effect; it is not sufficient that the money shall come in after its passage.[3]

§ 18. *Payment of Claims.* The method of paying claims has undergone considerable change. In the early decades claims were presented to the Council singly or in small groups. The Council considered each individually and ordered it paid or otherwise. As payments grew too numerous to conform to this method council action came to be a formality and approval a function of its committees; then the auditor's function became a necessity. Bills were approved by administrative boards or council committees having charge of the class of expenditure concerned. An ordinance of 1880 [4] required the signature of the president and secretary of each board, or the majority of the members of a committee. They were then referred to the City

[1] § 45.

[2] This certificate of money in the treasury is not required in case of street improvement contracts covering a year or more, or in contracts made by the Board of Health. In case the contract does not cover a year the question is determined upon whether the costs are assumed by the city or paid by assessment on abutting property. When the expense is borne by the city these contracts come within the law. (61 O. L., 288.) By act of March 21, 1904, money to be realized from the sale of bonds or notes "sold and in process of delivery" is regarded as in the treasury in the appropriate fund. (97 O. L., 44.)

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Auditor who examined them and certified them, if found correct, to the council committee on claims. The approval of this committee was the Auditor's authority for placing them in an ordinance for payment. This rule was not at all times carefully observed; prior to 1879 many claims were paid without being placed in the claim ordinance. This practice was finally stopped, but the whole method was so cumbersome and subjected claimants and employees to such great delays that it gave general dissatisfaction. Soon after the inauguration of the Federal Plan the method was changed so that the Council set aside a certain sum for the Auditor to disburse from; bills were examined and approved by department directors and paid at once.[1] In the endeavor to avoid these vexatious delays another irregularity grew up. By means of "advance orders" a part or the whole of a claim against the city was paid before the passage of an ordinance authorizing it. These transactions were not entered on the books of the Auditor or Treasurer until the claim ordinance containing the items had been passed, sometimes months after the money had been actually paid out.[2]

The method followed at present is very simple. A section of the appropriation ordinance authorizes the Auditor to draw warrants upon the Treasurer for the amounts appropriated in the ordinance, whenever claims presented are properly approved by the head of the department concerned.

§ 19. *Transfers.* The contingent fund is calculated to obviate the necessity of making frequent transfers between other funds. Should occasion require a transfer, however, the Code provides that the Council may secure it by a majority petition to the Court of Common Pleas. The petition states the transfer desired and the reason for it. Oppor-

[1] *Annual Reports*, 1893, p. xi. [2] *City Documents*, 1877, p. 32.

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tunity is given for the filing of objections and a public hearing.[1] The Council by a three-fourths vote of all members and the approval of the Mayor may transfer from one fund to another any money derived from the general property tax, after the accomplishment of the object of the fund from which the transfer is made. In earlier years transfers were effected contrary to law by means of overdrafts. Special acts of the Legislature were also occasionally resorted to as a means of effecting a transfer of funds.[2]

§ 20. *Accounts.* Without a proper accounting system the financial administration of a large city is almost certain to be weak and inefficient. The books of a municipal corporation should reveal in a concise way at least the cost of maintaining each function performed; but there are other objects to be accomplished and unfortunately accurate and useful accounts cannot be made entirely simple. A system should be uniform for all departments of a single city, should act as a constant check upon every department and officer authorized to collect any kind of revenue, and yet be simple enough not to involve unreasonable outlay in maintaining it.

The purpose of municipal, as of all other accounts, is to convey information: first, to those administering the affairs of the city; second, to the general public interested in the public business as citizens and taxpayers. The financial statements and accounts of Cleveland have not always served the fundamental purpose of conveying information. At times, indeed, they could not have been better constructed to conceal the most essential facts. Prior to 1860 a "system" of accounting was scarcely required to reveal the financial conditions of the city. By 1866 it would seem that a radical defect existed in the accounts, in the reports

[1] § 43. [2] 75 O. L., 1103; 91 O. L., 769.

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made by accounting officers, or in the city officials themselves. One of the greatest defects in the existing system, the Mayor declared in that year, was "the want of an intimate knowledge of our finances on the part of the various city officers, and a constant knowledge of the condition of the various funds." [1] Ten years later that condition is reported to have given way to a system of accounting which gave "absolute certainty at all times respecting financial states." [2] Notwithstanding this assertion by the Mayor, the expert accountant employed by a citizens' investigating committee the next year reported that there was no evidence that the city had any outstanding liabilities or was possessed of any assets, although there were at the time bonds outstanding to the amount of $5,160,000.[3] The same committee reported that prior to 1877 no itemized account of expenses incurred in marketing bonds had ever been kept, the amount being "approximated or guessed at." [4]

Plenty of evidence exists that the Council was not indifferent to the defects in the accounting system, but the problem was greatly exaggerated by the disjointed system of boards with independent powers. A great forward step was taken when in 1886, in response to a demand voiced by the Mayor in his annual message,[5] the state Legislature passed an act giving to the Board of Revision the authority to prescribe for each department of the city government forms for its books, accounts and reports, and to formulate and enforce a uniform system of accounting.[6] The design was to reflect the entire business of the city in the Auditor's books. Something was accomplished in this di-

[1] *City Documents*, 1866, p. 6. [2] *City Documents*, 1876, p. 18.
[3] *Council Proceedings*, October 15, 1877.
[4] *Ibid.*, February 18, 1878. [5] *Annual Reports*, 1885, p. xvi.
[6] Act of May 15, 1886, 83 O. L., 169.

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rection,[1] yet the necessity for "more systematic methods of keeping accounts" was urged as one of the reasons for a radical change in the system of municipal government and was one of the influences which ultimately brought about the introduction of the Federal Plan.[2] Soon after the adoption of the centralized system a scheme of accounts and reports was worked out which justly attracted attention throughout the country as a model of excellence. A concentration of the accounts of all departments in the Auditor's office was effected by daily reports; weekly reports were made by the Auditor to the Council. Data regarding property in possession of the city were also collected.

The excellent accounting system, dating from about 1893, was maintained until changes were made necessary by the uniform accounting law passed by the Legislature in 1902. Reference will be made to this enactment in a succeeding section.

§ 21. *Financial Reports.* It is to be expected that the published reports of the city should reflect all the virtues and defects of the accounting system. From 1836 until 1875 the Auditor's reports consisted of a statement of receipts and disbursements of each of the several funds. In the receipts balances on hand, transfers from other funds, tax receipts and income of all sorts are entered chronologically and added. The statement of disbursements is made up of a list containing every payment from the fund, arranged in the order in which they were made. As long as there were no more than half a dozen funds and the general fund—which was always the largest—did not cover more than two or three printed pages, some idea

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through the pages. Later this became utterly impossible. No summary of actual receipts and disbursements was given for all departments and much study is required to determine what the report contains. At last the method broke of its own weight. The Auditor's report for 1875, closely printed in small type, covers one hundred and seventy pages; it embraces the statement of two hundred and twenty-six funds, arranged on no principle whatever. The ledgers were evidently used for printer's copy,—with the index omitted. It is not surprising that in the following year the Auditor makes no report at all of receipts and disbursements. The absurd condition of 1875 was simply the result of following without modification a method fairly adequate thirty or forty years earlier. Doubtless one of the chief causes of extravagant and wasteful expenditure in the decade beginning with 1870 can be traced to these unintelligible reports.

Bad as the financial reports were before 1875, they were far worse for several years following that date. For the hundreds and thousands of items in each fund as previously reported a simple statement of total receipts and expenditures in each of the principal funds was substituted. By much labor the former could be made to give up its kernel of truth; nothing but a general and approximate result could be obtained from the latter. Finding no details in the Auditor's report the inquirer turns to the annual reports of the various departments. While the fiscal years of the different offices did not correspond and reports in many cases overlap, it is generally possible to ascertain the facts. It was probably the utter uselessness of the Auditor's report that led the Council in 1870 to adopt a resolution requiring

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port of the Auditor indicates the source of all receipts and the purpose of expenditures. Although not making use of the present classification into "ordinary" and "extraordinary," cost of maintenance can be distinguished from outlays by means of the division into "operating expenses" and "permanent improvements."

§ 22. *Examination and Supervision of Accounts.* The final step in financial administration is an examination of the accounts and reports of financial officers by some other department of the city government. Instead of this, or along with it, the state may also examine the accounts of local fiscal officers. A double system of auditing of this sort has recently been introduced in Cleveland.

In its efforts to exercise some effective control over the different departments, the Council in 1878 created a standing committee on Department Examination, with full powers to investigate accounts and records and to examine city officers at any time.[1] Although the powers of this committee were curtailed by an amendment of the council rules two years later,[2] it still retained more delegated powers than any other committee of the Council. Unfortunately it soon became practically a dead letter, rarely meeting and exercising none of the supervision over departments that was intended.[3] Under the Federal Plan the Mayor was authorized to appoint, if occasion demanded it, disinterested persons not exceeding three in number, to examine without notice the affairs of any officer or employee, and the result was immediately transmitted to the Council. On the strength of this authority Mayor Johnson appointed a Departmental Examiner, for continuous service. Being di-

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officers of the corporation, it was held that the Mayor had implied authority to appoint the necessary assistants. The Departmental Examiner was, therefore, continued after the repeal of the Federal Plan, although at present no such officer is employed.

By a statute of 1898[1] the accounts of the Board of Education were examined by a committee, appointed by the Court of Common Pleas, and the City Solicitor. The need for such an independent examining body was pointed out by the City Auditor several years earlier. "The Board," he said, "should not permit any good-natured feeling of confidence in its officers to stand in the way of a systematic performance of their duty" to examine thoroughly all accounts.

In 1902 the state began to develop a system of supervision over the accounts of municipalities and other local taxing bodies. State supervision, though of a less thoroughgoing character, had been tried at least twice in earlier years, but without the desired results. A law of 1856[2] required the clerks of cities of the first and second classes to report annually to the Auditor of State the aggregate expenses of the city for the preceding year, the general and special taxes of the city, and the population. A fine of $100 was imposed on the clerk for neglecting to make the report. It is not apparent, however, that the law was ever enforced. A similar law in 1870[3] required auditors of cities of the first and second classes to report annually to the Auditor of State the expenditures of the municipality, under the following heads: schools, police, streets, bridges, fire department, lights, poor, salaries, and interest. The

[1] Act of March 30, 1898, 93 O. L., 517.

[2] Act of April 5, 1856, 53 O. L., 57.

[3] Act of April 18, 1870, 67 O. L., 71.

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act also called for a statement of the amount of money raised by taxation. For a few years such returns were made and published in the reports of the Auditor of State, but no effective state control resulted.

The law of 1902 [1] was the first important enactment in Ohio, or in any other state in the Union, for standardizing the accounts and reports of all local political units through state authority. The act established in the Auditor of State's department a "bureau of inspection and supervision of public offices." The Auditor is *ex-officio* chief inspector and supervisor and is required to prescribe and install a uniform system of accounting and reporting for "every public office and every public account." These prescribed forms are expected (1) to make a true and detailed exhibit of all moneys collected and expended by public officers, (2) to show "the receipt, use and disposition of all public property" and any income derived from it, (3) to state the sources of all income, amounts due and amounts received. Separate accounts are required for each public service industry, exhibiting (1) the "true and entire cost" of its ownership and operation, (2) the amounts annually collected by general or special taxation for service rendered to the public, together with "the amount and character of the service rendered therefor," (3) the amount annually collected from private users, and "the amount and character of the service rendered therefor." The chief inspector or his legal representative once a year at least makes an examination of the financial affairs of each office and officer. The points considered in the examination include: (1)

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force in the district and the requirements of the Bureau of Inspection and Supervision; and (3) the methods and correctness of accounts and reports. Each district having taxing power bears the expense of auditing all accounts under its own jurisdiction.[1] In Cleveland the form of the Auditor's report has been greatly modified to conform to the general methods. The transformation is not yet complete, but it is doubtful whether much has been gained in the way of clearness and intelligibility.

[1] The constitutionality of this provision was sustained in State *v.* Shumate, 72 O. S., 487.

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CHAPTER III

Revenues

§ 23. *Introductory.* It is the purpose of this chapter to give an account of the city's revenues. The main sources of information for both revenues and expenditures are the reports of the City Clerk prior to 1854, of the Auditor, Clerk, or Comptroller since that date, and the reports of the Clerk or Auditor of the Board of Education. Previously to 1893 two principal difficulties are encountered. First, certain revenues did not pass through the Auditor's hands and have to be sought in the reports of other departments. This was true of the Board of Cemetery Trustees, the Water Works Department, and of certain funds managed by the Board of Health, and the House of Correction. To add to the confusion special assessments for street improvements are not separated from other levies on property, and in some years not reported at all. In the early years funds raised by the sale of bonds and notes are not reported by the Auditor in such a way that their amount can be determined. The second difficulty is related to the first; receipts of the various funds are often given in a lump sum, with no indication as to the sources. In other words, receipts were classified according to the funds to which they were credited, if indeed such a method may be called a classification.

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students of municipal finance have worked out classifications agreeing in their main features, though varying somewhat in details. The scheme adopted here and applied to the revenues of Cleveland is practically identical with schedules now used by the United States Bureau of the Census. It is as follows:

I. General Property Taxes.
II. Special Assessments.
III. Public Service Privileges.
IV. Licenses, Permits, and Fines.
V. Gifts.
VI. From other Civil Divisions.
VII. From Sales of Property.
VIII. Receipts from Interest.
IX. Departmental Receipts, classified by Departments, Offices and Accounts.
X. Receipts of Municipal Industries.
XI. Receipts from Loans.
XII. Receipts of Trust Funds.

In the classification of neither receipts nor expenditures are the terms "ordinary" and "extraordinary" employed; they are not necessary for an accurate division of income according to sources. In the administration of the Ohio uniform accounting law a composite schedule was adopted and this arbitrary and misleading distinction made. No general agreement has been reached as to the meaning of the terms when applied to receipts. In the Ohio reports "ordinary" is made to "include the income from taxation and other *ordinary* sources," while "extraordinary" receipts consist of "income from sales of bonds, temporary

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in others; "advance taxes" are classed as extraordinary receipts. The least that can be said is that such a distinction is arbitrary, useless, and almost certain to confuse the source of the income with the use made of it. In this work the terms are therefore not used, but it will be apparent that our statistics of receipts can be arranged in any desired order and described by whatever terms may be regarded as significant or useful.

It should be noted that in the statistical tables "receipts" and "disbursements" are necessarily given. The more scientific method of revenue and expense accounting in use in English and continental cities is not practicable in the United States and has never been attempted in Cleveland.

§ 24. *Sketch of General Property Tax in Ohio.* The taxing power of a municipal corporation is delegated by the state and strictly limited.[1] Ohio municipalities are further confined to a fixing of the rate within definite limits imposed by state laws; county and state officers make the assessments and collect the taxes. As a source of revenue, therefore, the property tax is not under the control of local authorities. As regards certain less important sources of income local autonomy is greater. The result is that a city frequently finds itself helpless to correct the gravest abuses in its taxing system.

It is foreign to the purpose of the present study to undertake an adequate history of taxation in Ohio. The essential features of the general property tax, however, differ but slightly from state to state.

Prior to 1825 the general property tax was not employed in Ohio. State and local revenues were derived from separate sources. For the state the principal source was the land tax raised by specific levy laid by the Legislature on

[1] *Cf.* Mays *v.* Cincinnati, 1 O. S., 268.

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each one hundred acres. Lands were divided into three grades. The rate for first-class land varied from $0.60 in 1803 to $3.75 in 1816 and then sank to $1.50 in 1825. On second-class lands the rate varied in the same way from $0.40 to $3.00 and back to $1.12; and on third grade land it was from $0.20 to $2.00. Horses and cattle were assessed at a given amount per head;[1] and a license on auctioneers, merchants and peddlers contributed to the slender revenues of the frontier commonwealth. For state taxes no valuation was attempted, but for local purposes land and buildings were appraised and taxed according to their value. Of the land tax the county received in most years a share, varying from one-eighth to one-half of the total amount collected. A road tax was also assessed on land in the same manner as the state tax. In 1820 the road tax on first grade land in Cuyahoga county was $1.00 per hundred acres, $0.75 for second grade land, and $0.50 for third grade. Each proprietor was permitted to pay his tax by work on the roads under the direction of the township supervisor at the rate of seventy-five cents a day.[2]

The statistical tables show certain receipts in the years 1837-1852 from "Poll Taxes." Capitation taxes were forbidden by the Constitutions, both of 1802[3] and 1851;[4] but the road tax noted above and especially the requirements of a statute of 1837,[5] re-enacted several times, were commonly known as poll taxes. By the latter act "all male persons between twenty-one and sixty years of age" who had resided in the state three months and were not a township charge were liable every year to two days' labor on

[1] 1 Chase, 369, 470; 2 Chase, 1384, 1470.

[2] *Vide Cleveland Herald*, June 23, 1820.

[3] Art. viii, § 23. [4] Art. xii, § 1.

[5] Act of June 1, 1837, 35 O. L., 65. A later act of the same nature was held valid in Dennis *v.* Simon, 51 O. S., 233.

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the roads, under the direction of the supervisor who, in Cleveland, was appointed by the Council. In spite of fines and forfeitures for delinquencies only a small part of the tax or labor was realized. An amendment to the charter in 1847 granted the supervisor, in lieu of any fixed salary, a percentage of the poll tax collected.[1] The result was a remarkable increase from $350 collected in 1847 to $1,300 in 1848. In the latter year about one-third of the whole amount was "worked out" on the streets at fifty cents a day.[2]

In 1825 the idea of a general valuation for both state and local taxes was inaugurated.[3] The law [4] of that year abandoned the classification of land into different grades and attempted to assess town lots and other land at its true value in money. As a result of the first valuation the average value of lands in Cuyahoga county was $3.33 per acre, including the village of Cleveland. The total value of lands in the village was $119,655, and in the whole county $876,782.

As yet there was comparatively little personal property. Animals were still subject to assessment by the General Assembly at a given sum per head. The small amount of mercantile capital was reached through a license on merchants and brokers. Property in the form of mills and factories was specifically exempted in order to encourage industrial enterprises of this sort.[5] With the growth of

[1] Act of February 8, 1847. *Cf. Daily Herald*, March 15, 1847.

[2] *Daily Herald*, March 17, 1848.

[3] It is interesting to note in this connection that Cleveland claimed the distinction of having sent to the Legislature the men responsible for the general law for valuation of land in 1825 and for the general prop-

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towns and cities new forms and increasing amounts of personal property appeared. Horses and cattle paid in 1844 one-sixth of the taxes in the state and nearly three times as much as merchants' capital, steamboat stock and money at interest; and a strong sentiment arose in favor of obliging these new forms of property to bear their fair share of taxation. The result was the "Kelley" law of 1846,[1] which, it was boasted, "taxes those who are able to pay. It taxes articles of pride and luxury, as well as lands, houses and money."[2] In the cities especially was felt the necessity for a wider range of taxable property. The Mayor of Cleveland in 1840 complained that the citizens were oppressed with the weight of taxation, that some had experienced great difficulty in paying their taxes, and that others had been obliged to allow their property to be sold.[3]

The Kelley law bore the title, "An act for levying taxes on all property . . . according to its true value." A definition of real property was given and provision made for its valuation every six years. Special effort was made to include property of every kind. Personal property was defined as, (1) "every tangible thing animate or inanimate," (2) "capital stock, undivided profits, and all other means" of companies, "whether incorporated or unincorporated." Another tax law in 1852 followed closely the lines laid down by the Kelley law. An act of 1859[4] simply codified and re-enacted existing statutes. The tax system was again revised in 1878[5] and has stood practically without change un-

[1] Act of March 2, 1846, 44 O. L., 85. This act is generally known as the "Kelley" law, because it was championed by Alfred Kelley, of Cleveland.

[2] *Daily Herald*, March 12, 1846.

[3] *Ibid.*, March 18, 1840.

[4] Passed April 5, 1859, 56 O. L., 175.

[5] Act of May 11, 1878, 75 O. L., 436.

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til the present time, so far as the general property tax is concerned. It is apparent, therefore, that during almost the entire history of Cleveland the property tax has remained upon the same basis. The principal changes to be noted are the reduction of the rate for state purposes and the great growth of local levies.

§ 25. *Real Estate.* Real estate bears the chief burden of taxation in Cleveland, its assessed value being nearly three times that of personal property; in two years only—1868 and 1869—has the value of personal property exceeded that of real property. For the state as a whole the proportion of personal property to real is somewhat above that for the city of Cleveland.

Real estate in the city in 1840 was valued at $1,222,914. In 1846, at the time of the introduction of the general ad-valorem tax, it stood at $2,619,933; the valuation made in 1861 showed an increase to $14,473,875. Since 1863 real estate has been appraised every tenth year. The greatest percentage of increase resulted from the appraisement of 1870. During the period intervening between decennial appraisements the increase is usually slight. It is a most patent fact that real estate is grossly undervalued. Something like a true value was doubtless obtained before 1860. In 1867, however, it was estimated that the real value was forty to sixty per cent higher than the assessed valuation;[1] the same condition existed in 1880.[2] At the present time it is the opinion of those who have studied the question that the actual value of land alone in the city amounts to $400,000,000, or nearly double the assessed value of both land and buildings, and all personal property together.

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land was made the subject of inquiry by the state Tax Commission in 1893. It was found that the most productive real estate in the city—first-class office buildings, stores and warehouses—paid from eleven per cent to twenty or twenty-five per cent of their gross rentals in taxes; small properties paid even a larger proportion. Banks in the state paid about twenty per cent of their net earnings, and the railway companies from five to eleven per cent of their net earnings, the majority of them less than eight per cent.[1]

§ 26. *Money and Credits.* Money at interest was made taxable in 1831,[2] again in 1845,[3] and by the Kelley law in the ensuing year. The latter elaborately defined "moneys" and "credits" and allowed deductions of debt in listing them. The Constitution of 1851 required the taxation of all credits;[4] but contrary to the spirit of this provision the Legislature in the next year enacted a law[5] permitting a deduction of indebtedness as in 1846. The statute was, however, declared unconstitutional.[6] One dissenting member of the court, apparently, gave the cue to the lawmakers, and in 1859 credits were defined as "the excess of the sum of all legal claims and demands" over liabilities.[7] "Credits" were therefore taxed and the letter of the Constitution complied with. The definition of 1859 and the methods it introduced are still in vogue as the law of the state.[8] The provision of 1852 permitting individuals to deduct their actual indebtedness from their credits was asserted to be

[1] *Report of the Ohio Tax Commission*, 1893, pp. 37, 38, 40.

[2] Act of March 14, 1831, 29 O. L., 272.

[3] Act of March 13, 1845, 43 O. L., 109.

[4] Art. xii. § 2.

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the cause of the great decrease in the amount of personal property on the duplicate.[1] Shrinkage is shown in the grand duplicate of the state, the value of personal property falling from $297,061,572 in 1854 to $240,026,550 in 1856[2] and in Cleveland from $8,705,866 in 1853 to $3,753,008 in 1856. In 1880 the total credits for Cuyahoga county were $3,282,071, having fallen over a million from 1875. The whole amount of moneys on the duplicate in possession or on deposit subject to order was $1,493,488 and has not grown much since that time. In contrast with this may be placed a report of the Board of Equalization made to the Council in 1879,[3] showing that the deposits in Cleveland banks amounted to not less than $18,000,000. The report further shows that in respect to the amount of credits returned per capita of voting population Cuyahoga ranked tenth among the counties of the state. At the same time the Cleveland Board of Trade was claiming for the county a commercial importance which entitled her to rank second in the state, with the third far below.

A few months later the Council by resolution called attention to the fact that moneys and credits were escaping taxation in Cleveland and demanded legislation which would "secure the lasting and proper valuation of personal property, or impose severer penalties for concealment, for misrepresentation and fraud."[4] The subject was for some time kept before the Council, although of course it could do nothing but "recommend" and "request." A special committee of that body in 1883 investigated the way in

[1] *City Documents*, 1857, p. 4.

[2] *Annual Report of the Auditor of State*, 1905, p. 325.

[3] *Council Proceedings*, July 21, 1879. The State Tax Commission reported in 1892 that in the city of Cleveland only about three per cent of

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which individuals listed their personal property. Twenty-three millionaires, believed to possess property worth $23,000,000, listed in personalty of all kinds,—investments, credits, household furniture, horses, carriages, watches and jewelry,—but $1,943,735. Sixteen of the twenty-three returned no money at all in possession or on deposit; thirteen of the twenty-three listed nothing in the way of investments in bonds, joint stock companies, annuities, or other kinds of investments. None of them returned jewelry, diamonds or other precious stones; seven returned nothing at all but horses, carriages, and household goods. The cause for this condition was found in the "incompetency of the assessors and the leniency of the Board of Equalization," and the fact that the latter possessed insufficient powers. As a remedy it was recommended that the compensation of assessors be increased to $15 or $20 a day. This, it was believed, would insure the selection of competent men and bring about an active criticism of their work by competitors for their positions.[1]

§ 27. *Corporations.* The law of 1846 sought to reach corporations, just then beginning to have some importance, by a tax on capital stock. All corporations, except banks, were by the general act of 1852[2] required to list real and personal property in the state, including money and credits, at its value in money. In 1859[3] the law was re-enacted with special reference to the roadbed and other realty of the railroads. To-day all corporations not otherwise provided for pay the general property tax for state and local purposes. Experience in Ohio, as elsewhere, demonstrates the futility of applying the general property tax to corporations; and the evils of the system are probably exaggerated

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by the system of virtual self-assessment. In 1883 the gas, telephone, and street railway companies of the city listed personal property to the amount of $237,106. The capital stock of the same companies was $3,100,000, and was supposed to be worth as much in the market. Charges of fraud in the listing of property by corporations were investigated in that year. Eleven corporations with a capital stock of $11,706,000, having a market value of $63,549,000, listed their property at $2,526,402. A wholesale evasion of taxation has long been practiced by the lake transportation companies. At least as early as twenty-five years ago,[1] the practice began of incorporating companies with legal headquarters just outside the city in some small town in the rural counties. Returns made by vessel owners in Cuyahoga county in 1906 were $296,250. In 1892 they amounted to $1,085,760.[2]

The present plan of railroad taxation was inaugurated in 1862;[3] prior to that date railroads were not differentiated from other corporations. In 1846, when the Kelley law was passed, the total amount of taxes paid by railroads in the state was $4. Four years later it was $484; but it increased the next year to $13,530, of which $5,300 was paid to Cuyahoga county.[4] Railroad property is annually appraised by boards consisting of the auditors of the counties through which the roads run. Great dissatisfaction has constantly been felt with this crude method of railway taxation. In face of the assured validity of the Nichols law the excuse of constitutional limitation cannot be given as a reason for failing to adopt a better method.

[1] Council Proceedings, April 20, 1882.

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§ 28. *Taxation of Express, Telegraph and Telephone Companies.* Express, telegraph and telephone companies are the only corporations assessed on intangible values. Under the Nichols law [1] the state board of appraisers and assessors is permitted to employ, in addition to capital stock, "such other evidence and rules" as are necessary to secure a true value in money of the company's property. Promptly upon its passage the constitutionality of this method of assessing specified corporations was attacked, but it was sustained in the Supreme Court both of the State and of the United States.[2] The Auditor of State apportions the valuation of telephone and telegraph companies according to the length of lines in each county as compared with the length of lines of wire in the state. Property of express companies is apportioned on the basis of gross receipts of the company. In 1905 the valuation of the eight express companies doing business in the state was $254,855 for Hamilton county (Cincinnati) and $143,150 for Cuyahoga. The value of telegraph property on the duplicate of Cuyahoga county exceeds that for Hamilton.[3]

Certain corporations doing business in the state pay no property taxes at all, state or local, being exempted by law. These are sleeping-car companies and freight line and equipment companies.[4] They pay to the state, however, a tax of one per cent on the value of their capital stock represented by property in Ohio.

§ 29. *The Tax Inquisitors.* No single feature of the Ohio tax system has attracted greater attention than the

[1] Act of April 27, 1893, 90 O. L., 330.

[2] State *v.* Jones, 51 O. S., 492. Adams Express Co. *v.* Ohio State Auditor, 166 U. S., 185.

[3] *Report of Auditor of State*, 1905, pp. 556-595.

[4] R. S., §§ 2780-13.

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so-called tax inquisitor.[1] He is a logical, if not a necessary, corollary of the personal property tax. The Legislature following the one which enacted the Kelley law found it necessary to give auditors power to correct false returns [2] by a law that still forms a part of the tax system.[3] In 1848 the matter of false returns and listing again received attention in a provision retained in the general revision of 1852. The escape of intangible personal property became so notorious in the larger cities that in 1880 a special act [4] was passed, legalizing for Hamilton county a practice previously followed, of paying private persons a percentage of the taxes collected on omitted property which they might be the cause of bringing on the duplicate. An act of 1876 [5] had led directly to this step by allowing the auditor additional compensation of five per cent for putting omissions on the tax list. In 1885 a second act was passed, authorizing the counties of Hamilton and Cuyahoga to make contracts for paying a percentage of the receipts to persons giving information that would result in putting property on the duplicate.[6] An act of 1888 [7] applied the principle to the rest of the state, without repealing the former law. By it twenty per cent of the amount recovered could be paid to the inquisitors. The principal efforts of these officers were directed to ascertaining what foreign stocks and bonds were not listed.[8] Both acts—1885 and 1888— had a

[1] *Vide* monograph by Professor T. N. Carver, *The Ohio Tax Inquisitor Law*, in the *Economic Studies* of the American Economic Association, vol. iii, no. 3, 1898, for a full discussion of the inquisitor system and its results.

[2] Act passed February 8, 1847, 45 O. L., 60.

[3] R. S., §§ 2781-2782. [4] Passed April 14, 1880, 77 O. L., 205.

[5] Passed April 11, 1876, 73 O. L., 221.

[6] Act of April 20, 1885, 82 O. L., 152.

[7] Act of April 10, 1888, 85 O. L., 170.

[8] *Report of Tax Commission*, 1893, p. 23.

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tendency to induce auditors and assessors to be remiss in the performance of their duties, in order to share in the large remuneration of the inquisitors.

In June, 1906, the Supreme Court of the state declared the law permitting the employment of tax inquisitors to be unconstitutional.[1] The two acts were found to be repugnant to the section of the Constitution [2] which requires all laws of a general nature to have uniform operation throughout the state. The way would still be open for the auditor to employ agents for the purpose of ferreting out unlisted personal property. A salary law for county officials, however, took effect January 1st, 1907, under which fees cannot be collected. In case inquisitors are not provided for by new legislation, it will be interesting to see what effect the salary law and the lack of a special inquisitor have upon the returns of personal property.

§ 30. *Assessors.* The collection of general property taxes in Cleveland has always been in the hands of county officers and, for the most part, assessment has been under the direction of county officials. In 1853 an amendment to the code of the preceding year permitted the city to levy and collect its own taxes.[3]

Apparently without exception, annual assessors and decennial appraisers were elected by wards or districts until 1890. Needless to say, they were frequently not selected with reference to their special fitness for the work, even in case of decennial assessors of real estate. The salary was not sufficient to secure men of business training. In 1890 appointment took the place of election. Assessors, not exceeding twenty, divided equally between the two dominant political parties, were named by the Tax Commission at a

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salary of $4 a day for the time actually employed. The Legislature which enacted the Federal Plan also passed a law giving Cleveland forty assessors to be appointed by the county auditor, not more than half of them from the same political party, and all appointments to be approved by the Tax Commission,[1] the salary remaining unchanged. A similar law still provides for appointment by the county auditor of not over forty-two assessors and as many assistants as he thinks necessary. The provision also remains that not more than half of the assessors shall be of the same party. Each assessor and assistant receives $4 a day for the time he is actually employed, and is required to give bond for $1000 to be approved by the Tax Commission.[2]

§ 31. *Boards of Equalization.* From the assessors the data relating to valuation pass into the hands of a board of equalization, and of such boards Cleveland has had a considerable variety.

By a special act for cities of the first and second classes,[3] in 1882 an annual city board of equalization was created. It was composed of the county auditor and six citizens appointed by the Council. Its function was to equalize real and personal property, moneys and credits. In Cleveland alone the Board could also sit as a Board of Revision. Appointment by the Council apparently did not secure the end in view; in 1888 the Board of Aldermen took action to have the law changed so that the Council could remove members of the Board for "just cause."[4] With the adoption of the Federal Plan, the power of appointing the Annual Board was transferred from the Council to the Mayor.[5]

[1] Act passed April 23, 1891. 88 O. L., 341. [2] R. S., §§ 1517-3.

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In 1892 the numerous tax boards were merged into one Board of Equalization and Assessment. The new Board thus became the legal successor of the Annual City Board of Equalization, the Board of Revision, the Decennial City Board of Equalization, and the Board of Tax Commissioners. The latter had been created in 1883 [1] to supervise the levying of taxes by the Council and Board of Education. It was made up of the Mayor, Auditor and three citizens appointed by the common pleas court. In addition to passing upon the tax levies made by the Council and the Board of Education, the sanction of the Board was necessary for every ordinance passed by the Council for the appropriation of money. Besides the work of the four former boards the new body was also required to act as district assessor of real estate in each decennial year, and for this purpose could appoint assistants and fix their salaries, subject to the approval of the Council. In addition it could be called upon by the Council to act as a board of equalization for street improvements. It also made the annual appointment of assessors.[2] This Board of 1892 is interesting as a part of the general scheme of centralization and checks and balances inaugurated by the Federal Plan. It consisted of three members, not more than two of whom could belong to the same political party, appointed by the Probate Judge. The idea in locating the appointing power outside of the municipal government was to secure through the Board an efficient check or veto upon acts of the municipal administration in matters of tax levy and expenditure. Members of the Board were required to give their entire time to the duties of their office, to hold daily

[1] Act of April 16, 1883, 80 O. L., 124.

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sessions, and to keep a record of their proceedings. In the way of securing better returns on personal property a good work was begun. In its other functions, manned by capable and honest men, the Board would have done excellent service. It was, however, declared unconstitutional, as a law of a general nature applying to a single locality.[1]

Real estate is appraised every ten years by appraisers elected in districts. Their duty is to ascertain the actual money value of each parcel of land and its improvements.[2] In cities returns of appraisers are equalized by a Decennial Board composed of the Auditor and six citizens,[3] nominated by the Mayor and confirmed by the Council. In Cleveland and in all the more important cities of the state this board has been superseded by a Board of Review, which the Legislature created in 1902.[4] It is composed of three citizens appointed for a term of five years by the state board of appraisers and assessors upon written application of the county auditor. When appointed it assumes all the powers and duties committed to the Annual and Decennial City Boards of Equalization, the Annual City Board of Revision, and the Decennial Board of Revision. The Board of Review is quite generally regarded as the creature of corporate interests and designed to restrain the efforts of the Cleveland city administration to raise the valuation of the public service corporations.

A constant struggle for control of boards that have to do with the valuation of property seems to be a necessary part of a system of general property taxes. Cleveland has almost succeeded at times in securing direct responsibility through appointment by the Mayor or Council. So

[1] Gaylord *v.* Hubbard, 56 O. S., 25.

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far, however, special interests by use of state machinery have been able to thwart the undoubted will of the people.

§ 32. *The Tax Limit.* As a rule the municipal levies have been held within a rather narrow statutory limitation. This limit has applied to school levies, and levies for current expenses of the city, though not usually to taxes for interest and debt payment. A comparison of the actual municipal rate and the maximum legal rate shows that on the whole Cleveland has pressed close to the limit imposed, and that the state, rather than the local authorities, have been relied upon to keep the tax rate down to a proper level.

The tax limit for the village was placed at one per cent. An unlimited rate characterized the charter of 1836, but in 1841 a law was passed setting a maximum of five mills.[1] The general municipal act of 1852 fixed the limit of the levy for general purposes at five mills; for special funds of the police and fire departments, charities and correction, water-works, schools, sinking fund and interest eleven and a half could be levied in addition, making a total of sixteen and one-half mills. In 1856[2] the maximum was reduced to five mills on the dollar, levies for interest, debt and all special assessments being excluded. Again in 1862[3] it was placed at four mills, exclusive of levies for school, interest and debt-paying purposes. With a levy to the full legal limit of twelve and five-twentieths mills in 1863 the yield was insufficient to pay the estimated expenses of the city for the year. Economy was the only alternative until the Legislature could be appealed to for an increased levy.[4] From 1862 until the enactment of the Code in 1869 "the

[1] Act of March 20, 1841, 39 O. L. A., 65.

[2] Act of April 11, 1856, 53 O. L., 214.

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General Assembly fixed the tax limit almost every year, usually raising the maximum aggregate or adding a special fund." [1] The Code of 1869 [2] affords a good illustration of the "tax-levy budget;" besides setting a limit to the levy for general purposes at seven mills, the limit for at least thirty-four special purposes was fixed by the General Assembly, the total being thirty mills, or three per cent. The next year the limit for four additional special levies was also fixed by law,[3] but the maximum of special levies was reduced. The aggregate maximum levy was now very high. From 1868 to 1876 the total of municipal levies was the highest in the history of the city. Yet expenditure exceeded receipts in 1871 and 1872; debt grew rapidly and the cause was ascribed to an insufficient levy for current expenses. These were the years of violent efforts to economize. Levies already apparently too small were reduced still further by the Legislature in 1876.[4] "To live within our means," said Mayor Payne, "will tax our every effort, but it shall be done." [5] The code of 1878 limited the levy in Cleveland to eleven mills, with levies beyond the maximum for interest, the debt, and cemetery purposes.[6] In 1879 this limit was reached, but in the next two years an unusual request came from the Council, namely, that the tax limit for municipal purposes be reduced,—to nine and one-half mills.[7] Accordingly state laws were so amended that municipal levies, exclusive of interest and bonded debt, were reduced to nine and one-half mills and the levy for

[1] Wilcox, *op. cit.*, p. 453.

[2] 66 O. L., 145-286, §§ 640-648.

[3] Act of April 28, 1870, 67 O. L., 68.

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school purposes raised from four and one-half to six mills.[1] In 1888 we also find the Board of Aldermen requesting the General Assembly to pass no bill authorizing an additional levy of taxes by any authority, county or city.[2] The ground for opposing increase of the levy at this time was that manufacturing and other business interests would be driven from the city, the total rate for Cleveland being at this time $28.30 per $1000. In an attempt to allay such fears it was urged that with a proper valuation of property the rate would be lower in Cleveland than in other cities of its size.[3] The same contention was made by Mayor McKisson in 1898 when recommending the issue of $3,800,000 of bonds. Assuming that property was assessed at but thirty-five per cent of its value, he made an elaborate computation to show that Cleveland's actual tax rate was lower than that of any one of fourteen selected cities, although its nominal rate was higher than existed in any of them.[4]

The Code of 1902 limits the municipal levy to ten mills. This rate, however, is exclusive of levies for schools, libraries, hospitals, sinking fund and interest.[5] A levy greater than ten mills can be made, if submitted to the people and affirmed by two-thirds of all votes cast.[6] For 1907 it was fixed at 9.65 mills. But little increase can be made without popular consent, a method which has not yet been tried. In view of the fact that the city has long been accustomed to levying taxes practically to the limit permitted by law, it is pertinent to ask where the rate would go if the state limit

[1] *Council Proceedings*, February 2, 1885.

[2] *Proceedings of the Board of Aldermen*, January 27, 1888.

[3] *Proceedings of the Board of Councilmen*, March 26, 1888.

[4] Special Address of Mayor McKisson to Citizens Committee, *Annual Reports*, 1897, pp. 1077-78.

[5] § 33. [6] § 34.

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were removed and a full measure of financial "home rule," now so greatly desired, were secured. A great increase would probably result for a time—until business competition and local sentiment became effective as a check.

Appendix A gives the total levies for state, county, city, schools and library. Levies for local purposes are increasing, the county and school levies going up most rapidly. The state levy has been gradually reduced until at present it stands at 1.345. This is due to a deliberate policy of which we shall speak in the next section, under the head of tax reforms. Instead of taking advantage of the reductions in the state levy to relieve the local rates, local authorities have made additions which have more than counterbalanced its effect. The following table shows the total rate in Cleveland as compared with other Ohio cities:

	1902.	*1903.*	*1904.*	*1905.*
Cleveland.....	30.5	30.1	29.8	31.7
Cincinnati[1].....	23.18	22.7	22.54	22.38
Columbus.....	27.5	30.	30.	29.
Toledo.....	29.6	29.8	29.8	29.
Dayton.....	25.4	28.6	28.2	28.2

§ 33. *Tax Reform.* Of the reforms needed in local taxation none is so urgent as a separation of state and local levies. The evils attending an undervaluation of property will continue until this change is made. A plan for its accomplishment was introduced in 1902 by the enactment of the "Willis" law, imposing an annual fee of one-

[1] It should be noted that the rate in Cincinnati has been brought

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tenth of one per cent on the capital stock of all corporations engaged in private business and the "Cole" law which levies a tax of one per cent on the gross receipts of public service corporations. The revenue from these corporation or excise taxes made it possible to reduce the state levy on property from 2.89 mills to 1.35. Complete abandonment of the state levy is delayed only by a difference of opinion as to the best method of raising the revenue needed by the state.

A commission recently appointed by the Governor is quite certain to recommend, in addition to the separation of state and local taxes and the abolition of the state levy, a permanent tax commission and an amendment to the Constitution which will limit the rule of uniformity imposed by that instrument. The Chairman of the Commission, Attorney General Wade H. Ellis, has expressed [1] his alarm at the "extravagance" of expenditures for local government. It is probable that the degree of "home rule" desired by a certain party will not be furthered by the work of the Commission.

The present platform of the Democratic party demands separation of state and local revenues, the taxation of franchises, and more adequate laws for the assessment of railroad property.[2] It also demands "unqualified home rule." With the present city administration this means complete freedom in levying taxes and incurring debt, and direct control of all boards for equalizing local valuations. "Just taxation" and municipal ownership of public utilities are the keynotes of Mayor Johnson's policy as interpreted by its

[1] Address at the annual meeting of the Ohio Bar Association, July 12, 1906.

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friends. Mr. Johnson himself is an ardent single taxer. The plank in the Democratic platform calling for home rule in taxation is, therefore, enthusiastically supported by him, and by every other believer in a single tax on land values. Of course members of all parties and believers in every tax philosophy unite in desiring the separation of state and local revenues. The Howe bill, introduced into the Legislature of 1906 for raising all state revenues from a tax on the franchises of public service corporations, was unanimously endorsed by the City Council of Cleveland.

In 1901 Mr. Johnson instituted his so-called "tax bureau" or "tax school" in Cleveland. Its purpose was to demonstrate the gross inequalities produced by the present plan of assessment. The method was a reassessment which would indicate clearly to what extent property was overvalued or undervalued for taxation. It was found, it is claimed,[1] that from ten to fifteen millions should be taken from small properties and seventy to eighty millions added to undervalued real estate to bring both up to a sixty per cent basis which is supposed to exist in the state. The "tax school" cost the city in two years a little less than $40,000. On the other hand, it increased the taxes paid by public service corporations $50,000 a year and brought into the treasury back taxes amounting to $110,000.[2] The Board of Review, it is said, was created solely to check these inroads of reform. At all events the reformers' hands are tied for the present. To its promoters the "tax school" justified itself as an "educational" propaganda for revealing the dense ignorance with which assessments are made.

With an "Ohio Tax League" organized for creating a

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State Chamber of Commerce preparing to fight for remedial legislation, changes for the better,—or for the worse,—are almost certain to be made by the next Legislature or the one following.

§ 34. *Bridge Tax.* Prior to the Municipal Code of 1869 a large share of the burden of bridge construction was borne by the county. After that date the city was deprived of its just share of the county levy for this purpose. The difficulty became so acute that in 1873 [1] a law was passed requiring the county to pay to the city one-half of the county bridge levy each year, if formally demanded by the City Council. Still the city was dissatisfied because the county did not pay as large a proportion of the cost of bridges within its limits as it did in the townships of the county. It was urged that the city should receive the entire proceeds of the county tax collected from city property.[2] The necessity of each year making formal demand for its share of the bridge tax was looked upon as a grievance. Nevertheless, the law of 1873 is still in force, and the city assists in building and repairing bridges for the entire county.[3]

§ 35. *The School Levy.* The first school levy under the city charter was one-half mill, the highest levy authorized being one mill.[4] Prior to 1860 the average did not much exceed one mill, although in 1854 it reached two mills, the largest permitted under the Code of 1852.[5] An extra levy

[1] Act of April 28, 1873, 70 O. L., 179.

[2] *Council Proceedings*, February 25, 1881. The Auditor reported that in the years 1873-1880 the county levies on city property for bridge purposes amounted to $244,548; the county had paid back to the city $96,909. In this period the city had spent for bridges $2,372,779.

[3] R. S., § 2824.

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in that year was required to remove a large deficit remaining from former years, and to meet the cost of constructing and furnishing new buildings. In 1855 the levy was three-fourths of a mill and in 1856 three-eighths. In the years preceding the independence of the Board of Education the statutory limitation on school levies was sometimes specific and at other times included in the general limit for municipal levies. When the five-mill limit of 1856[1] was imposed on the Council, the Board of Education attempted to have the school levy exempted from its effect, just as the sinking fund and interest levies were. The failure of the Legislature to respond was due to the "remonstrance of many of our most influential citizens, and indicates," in the words of the Mayor, "their determination that the school department shall not be exempt from the general pressure."[2] A limit of three mills was reached in 1864.[3] The general act of 1873, completely depriving the city Council of a voice in school finances, fixed the maximum levy for all school purposes at seven mills. Until recent years seven mills remained the highest levy authorized. Desiring to control all tax levies, but legally without authority as to the school rate, the Council in 1879 made a special appeal to the Board of Education to keep its rate as low as possible, in view of the "impoverished and embarrassing condition of our citizens and taxpayers."[4] The answer of the Board implies that the interference of the Council was uncalled for; the highest levy it had ever made was five mills, while other cities in the state had reached the limit of seven mills.[5] Through an act applying to Cleveland

[1] *Supra*, p. 77.

[2] *City Documents*, 1857, p. 7.

[3] Act passed March 25, 1864, 61 O. L., 63.

[4] Council Resolution, *Proceedings*, May 28, 1877.

[5] *Council Proceedings*, June 4, 1877.

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alone, the next Legislature reduced the maximum levy to four and one-fourth mills,—a rate lower than that for any other school district in the state. Since this date the maximum legal levy has been gradually raised, the rate actually levied keeping close to the limit. In certain years the Board of Equalization also exercised its power to reduce the levy as made by the Board of Education.[1]

Eleven mills being desired for 1906, a special effort was made to secure the assent of the Board of Review. In order to convince that body of the absolute necessity of such an unprecedented rate the Board of Education first sought and secured the approval of the Cleveland Chamber of Commerce.[2] Since the rate for 1906 was approved the school levy has been completely withdrawn from the jurisdiction of the Board of Review.[3]

Fifty years, therefore, have witnessed an increase in the rate of taxation for the public schools from an average of less than one mill to eleven mills. One great cause of the increase not to be overlooked is the growing undervaluation of property. Another is the relative increase in expenditures for education, which will be discussed in the next chapter. In comparing the tax rates for school and municipal purposes it should be noted that the valuation which serves as a basis for school and library levies is about a million dollars greater than the city duplicate. For the former a portion of East Cleveland, Newburg and Brooklyn townships are annexed to the city.

§ 36. *The Library Levy.* The library levy was reported separately from the school levy for the first time in 1880. The earliest special levy for library purposes dates, however,

[1] Annual Message of the School Director, 1894-95, p. 15.

[2] *Annual Report of the Board of Education*, 1905, p. 20.

[3] Act of February 13, 1906, 98 O. L., 9.

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from 1853. A law of that year [1] set apart one-tenth of a mill from the state levy for furnishing school libraries and apparatus to all common schools of the state, to be expended under the direction of the state school commissioner. Apportionment was made by the same method for both schools and libraries. Cleveland thus paid more taxes for library purposes than she received and therefore objected to the system. The library levy was soon omitted. In 1867 [2] one-tenth of a mill was again authorized, and levied by the Cleveland Board of Education. By reason of a decision that it was illegal to apply the levy to any purpose except the purchase of books, the library was closed for a part of 1877. The Legislature of 1878 [3] sanctioned a doubtful right, which the Board of Education had exercised hitherto, of making an appropriation from the school fund for library purposes, but set a limit of $7,000 to the amount which could be so used. The Library Board now became independent, and in the next year one-fourth of a mill was authorized.[4] This maximum stood until 1893. An attempt was made in 1888 to have it raised to one-half a mill, but vigorous opposition on the part of the City Council seems to have killed the bill. The ground taken was that the municipal levy was "already so high as to become a drag upon the city's prosperity and growth." [5] In 1894 the half mill was secured; [6] the levy made by the Library Board was, however, cut down by the Tax Commissioners. In 1898 and again in 1900 a levy of six-tenths of a mill having been

[1] Act of March 14, 1853, 54 O. L., 448.
[2] Act of March 18, 1867, 64 O. L., 62.
[3] Act of April 8, 1878, 75 O. L., 101.
[4] Act of April 1, 1879, 76 O. L., 59.

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made on authority secured from the Legislature,[1] the Tax Commission exercised its power of revision. In 1902[2] eight-tenths were allowed. The present law gives nine-tenths for general purposes and one-tenth for sinking fund. Approval of the levy must be secured from the Board of Education.

The Library Board, as an independent taxing body, has, therefore, been obliged to follow the same line of action as the Board of Education and, indeed, the City Council itself, to secure adequate revenue. Repeated appeals to the state Legislature for higher maximum levies have been a marked feature in the history of every taxing body in the city.

§ 37. *Special Assessments.* Next in importance to the general property tax as a source of revenue is the special assessment. The nature of assessments and their relation to taxes have often been discussed by Ohio courts. In Raymond *v.* Cleveland[3] assessments for street purposes are defined as "those special and local impositions upon property in the immediate vicinity of an improved street, which are necessary for the improvement and levied with reference to the special benefit[4] which such property derives from the expenditure of the money." In an early case the constitutionality of special assessments was sustained. It was held that "assessments in proportion to benefit are not a taking of private property for public use, but rather a species of taxation and a legitimate exercise of the taxing power

[1] Act of February 27, 1900.

[2] Act of May 7, 1902, 95 O. L., 439. [3] 42 O. S., 522.

[4] It is a well-defined principle that assessments cannot exceed benefits. Otherwise they would amount to taking private property for public use without compensation, violating § 10 of art. i of the Constitution of Ohio. (Chamberlain *v.* Cleveland, 34 O. S., 551.) Even without specific statute assessments must be limited to special benefits. (Walsh *v.* Barron, 61 O. S., 15.)

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under the Constitution of 1802." [1] Other Ohio decisions hold that though "in a general sense, a tax is an assessment, and an assessment is a tax, there is a well-recognized distinction between them." [2] For example, exemption from taxation for revenue purposes does not extend to assessments for local improvement.[3] The power of assessment also differs from the power of taxation, for the former is not limited by the constitutional provision requiring taxation to be by uniform rule, while the latter is so restricted.[4]

The charter of 1836 gave the city power to levy "discriminating assessments" for local improvements in proportion to benefit accruing. Tested in the courts its constitutionality was upheld as noted above. Heavy assessments for grading purposes were made for a year or two and these brought the method into disfavor. It is impossible to determine from the City Clerk's reports how much money was raised by special assessment from 1836 to 1850;[5] but the amount was probably very small, for few street improvements were made until about the time the construction of railways began to cause something like a boom to the city. Evidence confirming this conclusion may be found in state legislation. In 1849 an act of the General Assembly [6] required that a part of the expenses of local improvement be paid out of the city treasury, but this proved unacceptable. The road fund was seriously depleted by paying from it fifteen or twenty per cent of the cost of special

[1] Scoville *v.* Cleveland, 1 O. S., 126.

[2] Lima *v.* Cemetery Association, 42 O. S., 128. [3] *Ibid.*, p. 130.

[4] Hill *v.* Higdon, 5 O. S., 243; Reeves *v.* Treasurer, Wood Co., 8 O. S., 333; Sessions *v.* Crunkilton, 20 O. S., 349, and other cases.

[5] In the latter part of this period the general fund contains certain

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improvements. It was urged that the whole of the road fund should be used for cleaning and caring for streets.[1] Two years later the mode of levying assessments was changed.[2] The cost of improvements could be met in any one of three ways: (1) the whole expense could be put upon at least twelve petitioning freeholders; (2) made a charge on the city treasury; or (3) met by a discriminating tax, if petitioners represented one-third of the value of the property that would be assessed.

The act of 1852 gave municipal corporations the right of making special assessments; it was left to the Council to prescribe by general or special ordinance the mode of assessment.[3] As a check against arbitrary use of the power by the Council, improvements to be undertaken had to be recommended by the Board of Improvements. In addition to this a recommendation of the Board had to receive a two-thirds majority in the Council, or be petitioned for by two-thirds of the resident owners to be taxed.[4]

In Ohio and the Western states generally a much larger proportion of the cost of improvements is raised by special assessments than in the Atlantic states. One of the causes for this, and probably the principal cause in Ohio, begins to be shown clearly in 1856. In that year a limit of five mills was imposed upon the tax levy for all municipal purposes, exclusive of sinking fund and interest requirements.[5]

> If it is found [said the Mayor] that this limit will cramp the energies of our city to that extent as to produce stagnation in matters of public improvement, the only remedy will be for the Council to exercise, to such extent as may be prudent, the power to levy special taxes for the purpose of local improvements.

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Relief for the general fund was also anticipated in the authority to include claims for damages in the cost of an improvement. The Mayor went still further and recommended that the Council use its power [1] to defray expenses of street lighting by a special tax levied on property lighted.[2] A disposition to act on a portion of the Mayor's advice is fairly inferable from the provisions of an act authorizing the construction of sewers. Special assessments were permitted to reach fifty per cent of the value of real estate after the improvement was completed. Costs in excess of such a percentage were to be borne by the general treasury.[3] By means of economy and special assessments real needs were provided for between 1856 and 1862. About the latter date limits on the general levy were raised to some extent.

The decade from 1870 to 1880 is most important in the history of special assessments in Cleveland. A "mania for improvements" culminated in 1873 and 1874.[4] Litigation grew tremendously. Methods still employed were then worked out under the stress of severest necessities. Pressure of state limits on local levies had caused assessments to increase enormously, and by 1870 they were looked upon as a great evil.[5] The matter was presented

[1] Grannted by act of March 11, 1853, 51 O. L., 367.

[2] Annual Message of the Mayor, *City Documents*, 1856, p. 15.

[3] Act of April 8, 1856, 53 O. L., 185.

[4] *City Documents*, 1875, p. xxi.

[5] "Great as the evil of local taxation has been, . . . these figures are far from expressing the magnitude of the evil, as what are termed *assessments*, for local improvements, are not included. . . . . I cannot state their amount, but I think their aggregate in the state for the last

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to the General Assembly and a law passed limiting special assessments to twenty-five per cent of the taxable value of the property. Moreover, no one could be compelled to pay in any one year more than one-tenth of the assessed value of his property.[1]

"The subject of distributing special assessments," declared the Mayor in 1876, "has raised the most difficult questions to solve met with in municipal management."[2] What were the sources of the difficulty? In the first place the work of making assessments and tax lists was kept too long in the Civil Engineer's department. In other cities of the state this had been made one of the duties of the city auditor.[3] The Engineer already had as many duties as he could perform; assessment lists were left to subordinates with no responsible head in control. Delays of two or three years occurred between the completion of costly improvements and the making of assessments.[4] After many appeals for relief the Council created in 1874 a separate department for assessments, which was made a part of the Auditor's department.[5] But there were still other causes of expensive and vexatious delays. One was the difficulty of making assessments final. After improvements had been made, with the provision that costs were to be assessed upon specially benefited property, it was extremely difficult to get an assessment that would stand. If a single property-holder, however insignificant his holding, made objection in writing within a prescribed time, an equalizing board had to be appointed and the whole assessment overhauled. Frequently as many as four separate assessments were worked

[1] Act of March 20, 1871, in O. L., [illegible]

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out by as many different boards. Delays caused in this way made it necessary to redeem bonds already issued out of other funds of the city,[1] or to reissue the bonds. When assessments were finally made, the feeling of benefit had gone and payment was resisted in every possible way.[2] Doubtless in many cases the improvement was made when property had a purely speculative value which had disappeared when the tax came to be collected. Legal technicalities were often used to throw the burden on the city. At the beginning of 1877 assessments for various improvements, amounting to $888,908, were stayed by court proceedings. Funds were diverted from proper uses, while the accumulated interest and cost of litigation made taxpayers' burdens all the greater.

Street openings fall into a separate category from street improvements. The Legislature in 1872 granted municipal corporations power to open, widen and extend streets at the expense of property benefited. The result was a large amount of such work.[3] Several long-contested cases over the distribution of the cost of street openings occurred, especially after 1876, and a large part of the costs was thrown on the city because rules of procedure applying to assessments to pay for lands condemned for street pur-

[1] On January 1, 1875, most of the expensive improvements made in the six years preceding had not been provided for. In connection with nineteen improvements originally costing $818,918, additional costs due to the delay were $235,779. Sinking fund surplus and all other funds were used, the special street improvement accounts being overdrawn $419,000. (*City Documents*, 1875, pp. xix-xx.)

[2] The Board of Improvements and the City Solicitor both recom-

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poses were confused with the procedure for levying assessments to improve streets already in existence.[1]

Out of the experience of these troubled years two principles emerged. It was recognized that when assessment was made by front foot practically no contest arose over payment, but when the method of estimated benefits was made the basis of assessment in a majority of cases bitter controversy resulted.[2] Whatever the principle of distributing the costs, by the close of the decade the conviction became general that the only safe course to pursue was not to make improvements until the assessment had been made and the money was in the treasury to pay for them.[3]

The new Municipal Code permits the Council to assess upon "abutting, adjacent and contiguous or other specially benefited lots" "any part of the entire" outlay connected with all kinds of street improvements, docks and wharves, lighting, sprinkling, sweeping, *etc.* Three methods for making the assessments are authorized: (1) by a percentage of the taxable value of the property; (2) in proportion to the benefit which may accrue from the improvement; (3) by the foot frontage of the property abutting on the improvement.[4] The first method is not used in Cleveland at all; the second is used exclusively for paving; and the third is always used for the construction of sewers.[5] Formerly by law, now by custom, frontage taxes for sewers are limited to $2 per foot. In practice they never exceed thirty-three and one-third per cent of the value of the property. As-

[1] Kelley *v.* Cleveland, 34 O. S., 468.

[2] *City Documents*, 1876, pp. 23, 94.

[3] *Ibid.*, 1880, Report of City Solicitor, p. 173. [4] § 50.

[5] The constitutionality of assessment by foot frontage was decided in Chamberlain *v.* Cleveland (34 O. S., 551), but assessment is valid only when it does not exceed benefits. (Shoemaker *v.* Cincinnati, 68 O. S., 603.)

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sessments for all purposes, within a period of five years, are limited to thirty-three and one-third per cent of the actual value of the property after the improvement is made. For many years prior to the enactment of the new Code the limit was placed at twenty-five per cent of the value of the property. In 1874 a limit of twenty-five per cent *after* the improvement was made prevented the carrying out of many improvements.[1] Even this limit, however, was reduced, so that in 1883 the twenty-five per cent was based on duplicate value. Property being greatly underassessed, the most necessary improvements caused a heavy burden to the general fund.[2]

The law requires the city to bear a minimum of one-fiftieth part of the cost of every improvement. Cost of street intersections is borne entirely by the city.[3] In 1882 it was provided that not more than one-half of the cost of repaving should be raised by special assessments.[4] This rule still obtains, except in cases where the grade is changed; and repaving caused by change of grade cannot be assessed on property owners unless the change has been petitioned for by a majority of the landowners on the street.[5] For meeting its share of the cost the city may sell bonds and levy taxes, in addition to all other taxes authorized, to pay the principal of such bonds and the interest on them.[6]

Few exemptions are permitted. Private institutions of public charity must pay special assessments; public school property has at times been required to bear them, but is now relieved by court interpretation.[7]

[1] City Civil Engineer's Report, *City Documents*, 1874, p. 150.

[2] Annual Message of Mayor Farley, *City Documents*, 1883, p. xiv.

[3] § 53. [4] *Infra*, § 61. [5] § 64 [6] § 53.

[7] Toledo *v.* Board of Education, 48 O. S., 83. Board of Education *v.* Toledo, 48 O. S., 87.

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Legislative procedure in making assessments takes the following course: By a three-fourths vote the Council must pass a resolution of necessity, determining the nature of the improvement,[1] approving plans, specifications and estimates, fixing the method of assessment and the mode of payment, and deciding whether or not bonds are to be issued in anticipation of collecting the assessment. Plans, specifications and estimates are made by the Engineer. The mode of payment regularly prescribed in Cleveland is in five annual instalments. Persons assessed have the option of paying cash within thirty days[2] and in this case payment is made to the city Treasurer; in practice almost no payments are made in this way. Payment by instalment means that bonds shall be issued or notes sold in anticipation of collection. All assessments are therefore certified to the county auditor, placed by him on the tax duplicate and collected as other taxes, one-half of each instalment, or one-tenth of the whole assessment, being added to the June and December quota of taxes.

The adoption and publication of a preliminary resolution is designed to prevent ill-considered action on the part of the Council.[3] Notice is served on owners of property to be assessed and within two weeks thereafter they are required to file any claims for damages to be sustained by the proposed improvement. At the expiration of the time for filing claims for damages the Council by a three-fourths vote passes an ordinance determining to proceed with the improvements. Claims are inquired into by a jury in the

[1] Assessments are not often made in Cleveland for grading and curbing alone. A street is not graded and curbed unless it is also paved. The whole cost is included in an assessment for paving.

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manner provided for expropriation. When the assessment is according to benefits the Council by resolution appoints an estimating and equalizing board and confirms its assessment. Notice of assessments is published and opportunity given for the filing and hearing of objections. Few objections to a proposed improvement are filed at this time. More frequently no protest is made until the first instalment is due, when application is made to the court for injunction. The city protects itself, however, by not letting contracts until after the first instalment is paid. If the assessment is then enjoined, the whole improvement can be dropped. Lastly, the assessing ordinance adopts the report of the board, making the assessment a final charge against the property benefited. Not until after the assessment is made and the first instalment paid are bids advertised and the contracts let.

Objection is made to the method followed in Cleveland, that assessments based upon engineer's estimates are not as satisfactory as where made after contracts are let, work completed and exact cost of the improvement known. The evil of having to make reassessment, on the one hand, and on the other the " rebate nuisance," are said to characterize the workings of a system that bases assessments on engineer's estimates.[1] Neither of these disadvantages are found in the present use of this system in Cleveland. A long and rather sad experience has proved the wisdom of making the assessment and collecting at least a part of it before the work is done. The engineer's estimates are always made high enough to cover the cost, but no troublesome refunds are necessary. When the work is completed and exact costs are known, the surplus of the engineer's estimates is pro-

[1] Victor Rosewater, *Special Assessments*, in *Columbia University Studies in History, Economics and Public Law*, vol. ii, pp. 418, 492-493.

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rated in abating the fifth instalment. If necessary, the last two instalments are abated. Taxpayers are gratified to find that final payments are reduced or unnecessary. On the whole the special assessment system followed in Cleveland works well, and litigation is now kept at a minimum.

The revenue derived from special assessments has increased at practically the same rate as the general property tax. Since 1890 it has grown from an average of about $500,000 to about $950,000. As the table in the Appendix shows, in the years 1883-1889, inclusive, and 1876-1877, the Auditor's reports do not permit a separation of special assessments from general taxes. Prior to 1883 it should also be noted that the figures given, while the best to be obtained, may frequently fall short of the actual amount collected;[1] but since 1890 the statistics are sufficiently reliable. Two reasons may be assigned for this discrepancy. Special assessments did not go on the regular tax duplicate unless payment was not made within a specified time.[2] It is possible that only amounts collected in this way are reported by the Auditor. A more probable cause is that contractors were often allowed to collect the assessment themselves.[3] In such cases it is obvious that no record would be made in the city's accounts.

The income from special assessments in Cleveland is larger, relatively, than that found in most cities of a popu-

[1] For example, statistics based on the Auditor's report show an income of $462,810 in 1873 and $592,126 in 1874 from special assessments. Yet the Mayor, in his annual message at the beginning of 1874, said that special taxes amounted in 1873 to nearly $800,000, and would probably reach $1,000,000 in 1874. (*City Documents*, 1873, p. 15.) From the same source it appears that special assessments amounted in 1861 to $50,000 (*City Documents*, 1861, p. 8); only $14,472, however, are included in the Auditor's report.

[2] *Annual Report of the Auditor of State*, 1870, p. 13.

[3] *City Documents*, 1864-65, p. 61.

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lation above 300,000. Per capita income from this source in various cities is shown in the following table. It will be observed that the Western cities, as a rule, raise larger sums in this way than do Eastern cities.

Per Capita Revenue from Special Assessments.

	1903.	1904.		1903.	1904.
St. Louis	$5.33	$5.13	Detroit	$1.25	$1.21
Chicago	1.88	2.20	Buffalo	.74	1.18
Cleveland	2.34	2.17	Milwaukee	1.15	1.14
New York	1.87	1.67	Boston	.70	.70
Pittsburg	6.10	1.65	Philadelphia	.52	.19
Cincinnati	.75	1.25	Baltimore	.06	.03

§ 38. *Public Service Privileges.* Income from public service privileges is derived from street car and gas companies. A license fee for each car in daily operation is charged, the amount varying from $5 to $10. At the time of the renewal of certain franchises in 1879, a license charge of $10 was imposed on each car [1] and the companies required to pave the space between the tracks. A few months later the license was reduced to $5.[2] There were at this time nine companies operating one hundred and sixty-three cars. A feeling existed that the street car companies should contribute more largely to the city's revenues. The Mayor in 1881 recommended legislation that would remedy the defect, pointing out that Cleveland compared most unfavorably with other large cities of the country.[3] The license was raised to $10, but no disposition has ever been manifested to make these companies a real source of revenue, as they are in most of the larger American cities. It may be granted that some good reasons can be adduced against us-

[1] *Council Proceedings*, September 15, 1879.

[2] *Ibid.* January 12, 1880.

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ing the street car companies to afford relief to taxation and other sources of revenue. The method of imposing an annual license on the cars operated is open to serious criticism; it tends to keep the facilities offered to the public at a minimum. The best method is undoubtedly that of a gross receipts tax combined, perhaps, with paving charges. In this way it is possible, as has been observed, to bind "the selfish aims of the companies to the general interests of the public." [1]

The income from gas companies is derived from a payment of six and one-half per cent of the gross receipts of the two artificial gas companies operating in the city. Franchises with this provision were granted in 1892.[2] The income has until recently been turned over to the trustees of the City Hall Sinking Fund.

§ 39. *Licenses, Permits and Fines. The Liquor Tax.* By far the most important source of revenue under this general heading is the saloon license, or "Liquor Tax," as it is commonly called. It is collected under state laws and the proceeds divided between the state and the municipality. From the beginning of the city government the sale of intoxicating liquors has been regulated by law so as to produce a revenue. In 1837 [3] a "license fee" for keeping a tavern and selling "ardent spirits" in quantities less than one quart was fixed at not less than $20 nor more than $100, a fine of $20 being imposed for every day the ordinance was violated. A license fee of $15 to $50 was also imposed for keeping a grocery. The Legislature in 1839 took away the power to license taverns and

[1] Dr. Max West, "Taxation of Street Railways," in *Economic Studies of the American Economic Association*, vol. iv, p. 121.

[2] Ordinance, no. 2376, January 13, 1892.

[3] Ordinance of February 25, 1837.

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groceries granted to Cleveland by its charter, and vested it in the Court of Common Pleas. Rules laid down to direct the court in the exercise of this power indicate that it was intended to be a temperance measure.[1] The Council at once prayed for a return of the privilege, claiming that under the new system the amount received from licenses was so reduced, (1) that the city's revenues were materially diminished, and (2) that there was no longer any pecuniary motive for either authorities or private individuals to suppress unlicensed taverns and groceries.[2] In 1850 a board of three excise commissioners was appointed by the Legislature for a term of three years, the Council having power to make future appointments. The board was required to meet four times a year, and in the granting of licenses to keep "tavern, porter-house, or house of entertainment" its duty was to eliminate "drunkenness, riotous, disorderly or licentious conduct." All money derived from the licenses was to be paid into the city treasury.[3] One hundred and seventy-five taverns and porter-houses were licensed within the year, yielding a revenue of $4,000 to $5,000.[4]

The Constitution of 1851 contained a "no license" clause.[5] An act of 1854 made it an offense to sell liquors to be drunk where sold, to minors, to intoxicated persons or to habitual drunkards. Under this law the only revenue from the business was that derived from fines for its violation. A demand that the liquor traffic should yield some regular revenue led to the enactment of the "Pond Law"

[1] Act of March 18, 1839, 37 O. L., 383.

[2] *Vide Cleveland Daily Herald*, December 19, 1839.

[3] Act of February 25, 1850, 48 O. L. A., 356. *Daily Herald*, March 18, 1850.

[4] *Daily Herald*, April 25, 1850.

[5] Art. xvi, § 18.

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in 1882,[1] imposing a graduated tax of $100 to $300, which was promptly declared unconstitutional.[2] Another attempt was made the next year in the "Scott Law,"[3] which repealed existing statutes and assessed a tax of $100 to $200. It was at once attacked, but the court sustained it for a time.[4] Nevertheless, in October, 1884, the Supreme Court decided that the Scott law was a license law and therefore unconstitutional.[5] Again the effort was renewed and in 1886 the passage of "an act providing against the evils resulting from the traffic in intoxicating liquors," known as the "Dow Law," was secured.[6] Its constitutionality was passed upon and assured.[7] A tax of $100 to $200 per annum was assessed upon each place where intoxicating liquors were sold, three-fourths of the receipts for the use of the city and one-fourth for the state. The income to Cleveland for the first year, 1887, was $348,000. The next year only $229,779 was realized, but the amount rose in two years to $400,000 and in 1905 had increased to $568,-242.[8] By an amendment in 1896[9] the tax was raised to $350. In 1906 the Legislature increased the Dow tax to $1000,[10] apparently more than doubling the income from this source.

[1] Act of April 5, 1882, 79 O. L., 66.

[2] State *v.* Hipp, 38 O. S., 199.

[3] Act of April 17, 1883, 80 O. L., 164.

[4] State *v.* Frame, 39 O. S., 399.

[5] State *v.* Sinks, 42 O. S., 345.

[6] Act of May 14, 1886, 83 O. L., 157.

[7] Adler *v.* Whitbeck, 44 O. S., 539.

[8] The amount given in the Auditor's report is the net income after deducting the fees for collection. In this study the gross revenue is given, the costs of collection being also included in the disbursements of finance offices.

[9] Act of February 20, 1896, 92 O. L., 34.

[10] Act of March 28, 1906, 98 O. L., 99.

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§ 40. *The Cigarette License.* The second kind of revenue in the group, "Licenses, Permits and Fines," is also derived from a state-imposed license, the city and the state dividing the proceeds. In 1893 [1] an act modelled on the Dow liquor law laid a tax of $300 on the wholesale and $100 on the retail trade in cigarettes. The following year, by a law [2] "to provide against the evils resulting from the traffic in cigarettes and cigarette wrappers," the amount of the tax was reduced to $30 on wholesale business, and $15 on retail. Half of the revenue goes to the state and half belongs to the city, the latter being divided equally between the police fund and infirmary fund. Cleveland's share of the income has averaged between $2500 and $3000, the exceptionally large amount for the first year being due to the very high license.

§ 41. *The Municipal License System.* A certain irregular income has always been realized from miscellaneous licenses. Prior to 1879 the amounts collected were usually reported in such a way that accurate classification is very difficult. A general licensing of trades and occupations has never been popular in the city. In spite of repeated attempts to introduce it, nothing that can be called a "system" of licenses has ever existed. The subject began to be agitated about 1880. Mayor Herrick repeatedly urged the introduction of a system that would bring in a larger revenue.[3] A special committee of the Council reported a system with rates varying from $250 a year for exhibitions, theaters and opera houses of a given seating capacity, to twenty-five cents for newsboys and bootblacks. No results of financial importance followed. In 1887 the Mayor

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again declared that "scarcely another city in the country receives such a small revenue from this source." Agitation carried on during the administration of Mayor McKisson resulted in an act of the Legislature in 1896 [1] which gave the city authority to license practically every occupation and business, carrying with it the repeal of existing ordinances. Having gone this far, for some reason the city made no use of the comprehensive powers secured. At the request of the Council the law was repealed in 1900.[2] Since that date Cleveland has been practically without a license system. In 1901 the City Clerk in his annual report [3] called attention to the matter, expressing a belief that licenses could be made to yield $100,000 a year. When Mayor Johnson came into office the Council proceeded to remedy the defect; but every ordinance was met by the Mayor's veto on the ground that a license is not a legitimate source of revenue. This position is, of course, consistent with Mr. Johnson's single tax philosophy. A license does not reach the "unearned increment" in land values and therefore cannot be tolerated.

It is unnecessary to attempt more than a brief characterization of each class of licenses. Vehicles of various kinds have been licensed at times. Express wagons, moving vans and cabs, paying from $3 to $5 each, make up the greater part of the income from this source. Since the lapse of the license system nothing has been received under this head except a registration fee of $1 required for automobiles since 1902.

The vender's license includes amounts collected from transient dealers and peddlers. It also includes permits at $1 each, issued by the Health Department for the selling of

[1] Passed April 27, 1896, 92 O. L., 207.

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milk. Since 1900 this is the only item in this class. The theater and show licenses are self-explanatory; nothing has been realized from them since 1900. The slaughter license, being in charge of the Health Department, still persists. A fee of $10 is charged for permission to engage in any branch of the slaughtering business. The gardener's license also remains, but purely as a market regulation. An annual charge of $10 is made for wagon space at the curb in the vicinity of markets. The income from building permits consists of fees collected by the building inspector under the authority of a state law passed in 1888.[1] The amount of the fee has been reduced from time to time, the primary object not being to secure revenue. This is also true of permits issued to plumbers to make sewer and water connections and to open streets for repairing sewers. The principal licenses classed as "miscellaneous" are ferry licenses, music permits, pawnbrokers' licenses, licenses to collect wharfage, plumbers' license,[2] and livery license.[3]

The dog license, or "dog tax," as it is frequently called, never yielded a revenue at all commensurate with the attention paid to the subject. The idea was introduced soon after a city charter was obtained, a tax of $1 being levied on every male and $5 on every female dog in the city.[4] The ordinance was probably not enforced; practically no receipts are reported. The municipal code of 1852

[1] Act of April 16, 1888, 85 O. L., 289.

[2] An act passed April 21, 1896 (92 O. L., 263) "to promote the public health and regulate the sanitary construction of house drainage and plumbing" imposed a license on plumbers. It was collected by the Board of Health until April 1, 1898, when the law was declared unconstitutional. (*Annual Reports*, 1898, p. 784.)

[3] The livery license was a health measure enforced under a state law enacted April 18, 1893 (90 O. L., 110).

[4] Ordinance of July 27, 1836.

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gave authority to levy a tax on dogs and other domestic animals not included in the list of taxable property for state and county purposes.[1] For two or three years following 1854 a considerable amount was collected, when non-enforcement again became the rule. In 1877[2] the attempt was renewed and 10,088 dogs licensed. By 1880 the number had fallen to 3,371.[3] At the request of the Board of Aldermen,[4] in 1887 the General Assembly provided for a tax of $1 to $2 per capita on dogs and specifically stated that in Cleveland the tax should be collected by the City Clerk and that the Council should provide by ordinance for enforcing the law and disposing of the money.[5] Since 1890 no receipts have been reported.

The lack of a license system in Cleveland cannot be attributed to insufficient general laws. Cincinnati, under the general laws of the state, in 1904 had more than thirty kinds of municipal license, yielding a total revenue of $79,212.[6] Councils in Ohio cities are given power to license shows or performances of any kind not prohibited by law, hawkers, peddlers, auctioneers, hucksters, bill posters, advertising sign painters, and bill distributors; and "in granting such license, may exact and receive such sum of money as it may think reasonable."[7] The Supreme Court has uniformly ruled that license fees, though of considerable amounts, are not in violation of the constitutional requirements for uniformity in taxation and taxation according to true value in

[1] § xcv. [2] Ordinance of June 4, 1877.

[3] City Clerk's Report, *City Documents*, 1879, p. 127; 1880, p. 163.

[4] *Proceedings of the Board of Aldermen*, January 5, 1887.

[5] Act of April 8, 1890, 87 O. L., 160.

[6] Report of City Auditor of Cincinnati, *Annual Reports*, 1904, p. 670.

[7] R. S., §§ 2669-2669c; § 7 Code of 1902. The question of what are "reasonable" charges is decided in Sipe *v.* Murphy (49 O. S., 536).

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money.[1] Municipal corporations in Ohio are not permitted to tax employments.[2]

The revenue from fines may be passed over without discussion. It consists of fines imposed in the police court and collected, in general, in the same court. A portion of the fines has in certain years been collected in the Workhouse.

§ 42. *Gifts.* The most important gifts received by the city have been designed for the purchase or improvement of parks and for public library purposes. Mr. Andrew Carnegie in 1903 gave to the Library Board $250,000 for the erection of seven branch libraries. Under the conditions of the gift the city is to provide sites and maintain the branch libraries at a cost of not less than $25,000 per annum.[3]

§ 43. *From other Civil Divisions.* The only regular revenue received from "other civil divisions" comes from the state for school purposes. By far the larger part of this item is, however, only nominally a receipt of this character. A law originally enacted in 1853 devotes a portion of the state levy to the support of schools. After being paid into the state treasury it is redistributed by the auditor of state to the various counties in proportion to the number of youth of school age, and by the county auditor is redistributed to the school districts of the county. From the first the more wealthy districts have regarded this method as unjust. Money raised in Cleveland for educational purposes, it was urged, should be used for the local schools.[4]

[1] Baker *v.* Cincinnati, 11 O. S., 534.

[2] Mays *v.* Cincinnati, 1 O. S., 268. *Cf.* note 2, p. 104.

[3] *Thirty-fifth Annual Report of the Cleveland Public Library Board,* 1903, pp. 14-15.

[4] Complaint naturally arose at first because previously the city had received more from the state school fund than she contributed to it. (*Report of the Board of Education to the City Council,* 1854-55, p. 18; 1855-56, p. 14; 1861-62, p. 6. *Report of Auditor of State for 1855,* p. 7.)

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In 1905 Cuyahoga county paid into the state common school fund $253,457 [1] and received from it $223,336. Excess of payments over receipts is much larger in Cuyahoga than in any other county in the state. A small part of the funds [2] received from the state for school purposes is derived from the "Western Reserve Fund," consisting of interest paid by the state on money which has come into the treasury for lands granted to the state by act of Congress. This money constitutes an irreducible debt upon which the state must pay interest annually at six per cent.[3] The income is distributed to local school districts in the same manner as the revenue from the state school levy.

§ 44. *From Sale of Property.* The income from sale of property is comparatively unimportant and irregular in amount. Revenues from the sale of real and personal property are kept distinct. Sales of investments held by sinking or trust funds are not included; neither, of course, are the sales of products of municipal industries.

§ 45. *Interest Receipts.* Interest receipts fall into two main divisions,—interest on deposits and earnings of sinking funds. The former has become relatively large in recent years, while the latter tends to decline. Interest on bank deposits is reported for the first time in 1890. Previous to 1888 it was illegal for the Treasurer to deposit funds in his custody in any bank. The restriction was probably never complied with. In 1878 a special investigating committee of the Council reported that all the funds of the city were deposited with a banking firm of which the City Treasurer was a partner. Instead of condemning the prac-

[1] *Auditor of State's Annual Report*, 1905, p. 313. The state levy for this fund was one mill out of a total of 1.35 mills.

[2] An average of about $6,800 per annum.

[3] R. S., §§ 3952, 3953, 3954, 3955.

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tice as illegal it was recommended that the funds be distributed among several reliable banks.[1] During the following decade a change in the manner of caring for city funds was kept before the Council.[2] In the earlier discussions security against loss seems to have been aimed at rather than income. It is evident that the Council desired a voice in whatever regulations were made. This opportunity for councilmanic patronage was, however, absent from the law finally enacted in 1888.[3] The Mayor, President of the Board of Education and City Solicitor constituted a Depositary Commission. It advertised for proposals for the use of city and school moneys and awarded the privilege to the banks offering the highest rate of interest. Stringent provisions were made for the prompt deposit of all moneys paid to any collecting officer. In 1894 the Library Board also came under the depositary law and slight changes were made in the commission.[4]

The Code of 1902 makes a similar provision for all cities in the state. Awards are made to banks offering the highest rate of interest and which give satisfactory bond of a surety company, or furnish security not less than twenty per cent greater than the maximum amount deposited at any time. No bank can receive an amount greater than its paid-in capital and surplus, and in no case more than $1,000,000. Unless public funds are deposited according to law the Treasurer is liable for losses.[5] Four per cent was the highest rate paid in 1905; the average rate for the next three years will be 3.98 per cent.

[1] *Council Proceedings*, February 18, 1878.

[2] *Ibid.*, February 22, 1882; *City Documents*, 1882, p. xii

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Net earnings of the sinking funds are regarded in this study as similar to the relatively temporary bank deposits made by the Treasurer. Although the sinking funds are managed independently, and are invested in productive securities, the nature of the income is precisely the same. Interest paid to the various funds by the city itself is treated as a transfer and not as a part of net earnings, although a small part of the income from the Library Sinking Fund, derived from city securities, is included for the reason that the trustees' report does not admit of an accurate separation. A full discussion of the city's sinking funds is given in another chapter.

§ 46. *Departmental Receipts.* Departmental receipts arise from services rendered by various departments for which charges are made, and from rentals of various kinds. A brief description will reveal the nature of this kind of revenue. The classification of departments for this purpose is identical with that followed in the analysis of expenditures and falls under the following general heads:

I. General Government.
II. Protection of Life and Property.
III. Health Conservation and Sanitation.
IV. Highways.
V. Charities and Correction.
VI. Education.
VII. Recreation.

I. The chief receipt credited to "general government" arises from the rent of public buildings and lands. During the whole of the period since the present City Hall was occupied in 1875, it has been possible to lease to private parties a portion of it for stores and offices. In acquiring land for various purposes, especially for bridge approaches, numerous parcels have remained unused. Wherever it is

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desirable to retain control of such lands, they are leased to private persons. The receipts from courts include costs of court and marriage fees collected by justices of the peace; officers' and marshal's fees; witnessing and serving writs for the police court, and from cases settled in the common pleas court. Other receipts of general government are miscellaneous. Prior to 1893 the amounts given in the statistics arise largely from inability to determine from the financial reports where in the classification many receipts in reality belong. With adequate financial reports miscellaneous receipts of general government become very small.

II. The fire and police departments to a large extent formerly, and still occasionally, receive pay for service rendered outside the city. Fees for inspecting and sealing weights and measures, fees of the boiler inspector, and for the inspection of private work requiring public supervision are reported here. City pounds formerly afforded a small revenue which is assigned to this division.

III. Since 1870 the health department has received small amounts in fees charged for "searching records and giving certificates" of births and deaths. This department for many years collected from residents and paid to contractors $20,000 to $30,000 annually for the removal of night soil. Prior to 1891 the money so collected and disbursed did not pass through the city Treasurer's hands and is not included in the Auditor's report. For these years the data are collected from the annual reports of the health department.

IV. General income from streets accrues chiefly from bills rendered for work done at the expense of private persons. A charge is made by the city for labor and materials used in repairing street pavements opened for sewer and water connections and plumbing. Beginning with 1902

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private contractors. A few thousand dollars are annually paid to the city for lighting railroad property. To bridges and viaducts are credited payments made by street railway companies for their use in operating street cars. These payments are looked upon as being made for "wear and tear" on bridges rather than as a public service privilege.

V. Receipts of the Workhouse are of two classes. Moneys derived from the manufacturing business are classified as the income of an "institutional industry." The true departmental revenue accrues from payments made by the Federal and state governments for board and transportation of prisoners. Receipts of the Infirmary include payments for the board of non-resident paupers and "private" patients; certain reimbursements for care, transportation and burial of paupers are also included.

VI. Receipts on account of education are very small. They consist of tuition fees paid by non-resident pupils, fees for manual training courses, and teachers' examination fees. The public library receives a small amount in fines and miscellaneous sales.

Income from municipal industries will be analyzed in a chapter devoted to that subject. One other kind of income has not yet been touched upon, namely, that from loans,—the sale of bonds and notes. This revenue is also assigned to a later chapter. The trust funds of the city are inconsequential, with perhaps one exception. Under a rule of the Water Works a deposit fee of $1 is required for each foot of pipe laid at the request of property owners in streets where the estimated revenue will not pay six per cent per annum on the cost of the pipe. As soon as the revenue reaches that amount the deposit is returned. Deposits made

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CHAPTER IV

EXPENDITURES

§ 47. *Introductory.* The revenues of the city formed the subject of the preceding chapter. We now take up expenditures. In an investigation of the finances of a single locality little choice as to the method of treating the subject of expenditures is afforded. The work is necessarily limited to a study of the concrete wants of the community and the method of satisfying them through the public economy. This method, though often condemned by writers on finance, is considered by Professor Bastable to be, "so far as inquiry has yet gone, the most convenient way of discussing this class of financial problems."[1] Such is the method of the present chapter. In order to be concrete, statistical data for the entire period are a prerequisite. Bare statistics of expenditure, however, mean little if not accompanied by a discussion of the nature of the city's wants, the way in which they arise, the changes that take place in them from time to time, and the way in which they are met. In other words, we are to inquire what use the city makes of the resources which it derives from the citizens and property owners in the various ways already discussed.

Granted that a given object of expenditure is a legitimate public function and occupies a place in the scale of common wants that justifies its claim upon the public purse, the question still remains in any particular case as to whether

[1] *Public Finance*, 3d ed., London, 1903, p. 148.

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the results obtained are commensurate with the outlay. In other words, a study of public expenditure may be carried into the more purely administrative phase of the public economy. The obstacles in the way of accurately testing the efficiency of municipal administration are numerous and of serious importance. In a very general sense it is true that functions performed by local governments are everywhere the same. If, then, it were possible to work out a scientific system of accounting and secure its use by all cities, a comparison of one city with another would show where extravagance and waste are to be found. To a limited degree this can be done. The work of the health department, for example, may, over a long period of years, be judged by the death rate. The efficiency of organs of protection may be roughly measured by statistics of crime against persons and property, of losses by fire and preventable accidents. Still more difficult, perhaps, is a determination of the relative efficiency of institutions of charity and correction, and education; and most difficult of all to estimate is the result of those expenditures which are grouped under the head of recreation. By means of uniform and accurate accounting the best tests of economy and efficiency can be secured in the case of municipal industries.

§ 48. *Federal Statistics of Municipal Finance.* It is evident that even when in possession of the most accurate statistics of a financial nature, comparisons of one city with another cannot take into account conditions peculiar to each locality, which make necessary a larger or permit a smaller outlay for securing apparently equivalent results. Nevertheless, it cannot fail to be profitable to establish a general standard, and then throw the burden of proof upon the locality which appears not to measure up to it. The remotest approach to such a standard of expenditures has not existed until recently. We now possess a beginning in the

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work of the Bureau of the Census of the Federal government,—the only comprehensive endeavor to present financial statistics of cities, scientifically classified, together with other data necessary for comparative studies. Since in the following pages frequent use will be made of these data, it may not be a digression to indicate briefly the origin, scope and purpose of the Federal statistics.

Investigations into the statistics of cities were included in the censuses of 1880 and 1890. Similar investigations were authorized for the census of 1900, but were postponed until after the publication of data relating to other matters. In the meantime a permanent census bureau was created in 1902 and a decennial collection of statistics of public indebtedness, valuation, taxation and expenditure of cities authorized. Statistical presentations of this kind had, however, been made annually from 1898 by the Department of Labor.[1] In order to avoid duplication, the work of collection and publication of statistics of cities was transferred from the Bureau of Labor to the Bureau of the Census, a step rendered possible by an act of Congress organizing the Department of Commerce and Labor so as to include both the Census Office and the Bureau of Labor. Through conferences and discussions of expert accountants, economists and city officials the census authorities in charge of the matter have worked out the most scientific and accurate schedule yet devised for reporting the financial transactions of cities. Results of the first investigation are embodied in " Bulletin 20—Statistics of Cities Having a Population of over 25,000, 1902 and 1903." Bulletin 50 continues the publication of data for 1904, with certain changes in classification. One special aim has been to se-

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cure comparable statistics of municipal finance. An attempt is made to exhibit "the relative total cost of municipal government; the relative cost of maintaining specific public services, such as schools and police and fire protection; the relative cost of constructing and maintaining sewers, streets, *etc.*" [1] Opportunity is, therefore, afforded to ascertain what light these Federal statistics throw upon the experience of Cleveland. To fail to use them would be to neglect the only serious effort so far made to furnish a basis for a comparative study.[2] The limitations on any conclusions reached in this way must, of course, be constantly borne in mind.

§ 49. *Classification of Expenditures.* A second method of study, also statistical, compares the expenditures of the city for one year and one period with others throughout its history. For this purpose a uniform classification applied to the whole period is quite as necessary as uniformity of accounting in instituting accurate comparisons between different cities contemporaneously. The greatest obstacle in presenting this historical survey is the utter lack of uniformity in the financial reports of the city from year to year. As elsewhere indicated, a detailed analysis of the cost of general government, previously to 1893, is impossible. As regards other departments the Auditor's reports contain

[1] *Bulletin* 20, p. 4; *Bulletin* 50, p. 5. On the development of the schedule adopted by the Bureau of the Census the Proceedings of the Conferences for Good City Government may be consulted. Valuable also are the published *Minutes of a Conference held in the City of Washington, November 19 and 20, 1903,* and the *Proceedings of a Second Conference,* held February 13 and 14, 1906, under the auspices of the United States Bureau of the Census. The introductions to Bulletins 20 and 50 describe in more detail the work of the Bureau.

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only a part of the city's expenditures, several boards enjoying independent financial powers. An appeal to the separate reports of such departments is unsatisfactory in almost every case. The fiscal years frequently do not cover the same period. Financial statements are not analyzed. Results in certain years are, therefore, not to be regarded as perfectly correct. While substantial accuracy is all that can reasonably be hoped for, it is believed that such inaccuracies as necessarily exist do not materially vitiate the general results.

The classification adopted for the historical study of expenditures, like that for revenues, is made to conform as closely as possible to that used in Bulletin 50,[1] which is based upon an analysis of the functions performed by the government. Expenditures [2] for each function and group of functions are further classified as "expenses" and "outlays." In Ohio municipal accounting the terms "ordinary" and "extraordinary" are employed. The latter is officially defined as "the expenditures for payment of debt, the purchase of public lands and buildings, the original construction of permanent improvements and such expenditures as result in *fixed assets* to the city." [3] To avoid throwing into one group payments for debt and for "fixed assets," and other errors likely to arise, it has seemed better to follow the census usage by adopting the term "outlay" and to define it as the expenditure incurred "in the purchase of lands and in the purchase or construction of buildings and other

[1] Publications of the United States Bureau of the Census, already described, will hereafter be referred to in this abbreviated form.

[2] It is always to be kept in mind that amounts tabulated are neces-

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structures, equipments, improvements, and additions which are more or less permanent in character." [1] The term "expense," as used, includes in a general way the cost of maintenance and operation. It corresponds closely to the term "ordinary" employed by the Ohio Bureau of Accounting.

In discussing the financial aspects of the functions of government the various topics will be taken up in the order in which they are presented in the statistics of expenditure. The arrangement is as follows:

I. *General Government.*
   1. Council and Legislative Offices.
   2. Mayor and other Executive Offices.
   3. Law Offices.
   4. Finance Offices.
   5. Elections.
   6. Public Printing.
   7. Public Buildings and Lands.
   8. Courts.
   9. Costs of Court and Judgments.
   10. Miscellaneous Expenses.

II. *Protection to Life and Property.*
   1. Police.
   2. Fire.
   3. Inspection.
   4. Miscellaneous.

III. *Health Conservation and Sanitation.*
   1. Health Department.
   2. Night Soil.
   3. Sewers and Sewage Disposal.
   4. Street Cleaning.
   5. Garbage Collection and Disposal.
   6. Miscellaneous.

[1] *Bulletin* 20, p. 9.

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IV. *Highways.*
1. General Administration.
2. General Street Expenditures.
3. Paving.
4. Sidewalk Construction.
5. Street Lighting.
6. Street Signs.
7. River and Harbor.
8. Bridges and Viaducts.
9. Abolition of Grade Crossings.

V. *Charities and Correction.*
1. General Administration.
2. House of Correction.
3. Infirmary Department.
4. Out-door Relief.
5. City Farm School.
6. Indigent Blind.
7. Employment Bureau.

VI. *Education.*
a. Schools.
1. Salaries of teachers.
2. Land and buildings.
3. Other expenses.
b. Libraries.
1. Salaries.
2. Land and buildings.
3. Books.
4. Miscellaneous.

VII. *Recreation.*
1. Parks.
2. Baths.

VIII. *Municipal Industries.* (Chapter V.)

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tures are especially prominent, and may be referred to before the various items of the budget are taken up. Perhaps the most striking of these is the growth. Not only have expenditures increased absolutely, as they necessarily must with the growth of population; in almost every department of government and municipal enterprise expenditure has increased far more rapidly than population. Per capita expenditures have doubled, trebled and quadrupled. This is true, of course, not only of Cleveland; other cities in a greater or less degree show the same phenomenon.

Along with this constantly increasing cost of conducting the city's affairs should be placed the periodical efforts to effect economy and "retrenchment." The motive for such efforts has seldom, if ever, been an *a priori* belief that the city was spending too much money. They grew, on the contrary, out of the practical condition of an excess of expenditure over receipts, taxation at the same time having usually reached the maximum limit allowed by law. In 1855, following a period of greatly increased expenditures, a general demand for economy appeared. Citizens insisted that no expense should be incurred "not absolutely necessary to carry forward the machinery of municipal government, and preserve the faith of the city." [1] Some reduction was effected; but in 1858 [2] the Mayor found it necessary to admonish the Council that the expenditures of the city for the four years past had "outstripped the home enterprise of its citizens" and should be reduced. Annual deficits had made necessary a resort to loans for current expenses. Disbursements for interest in 1852 barely exceeded $1000. In 1858 more than $45,000 was paid out on this account. Convinced that no amount of economy would

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keep the expenditures within the revenue from a low maximum tax rate,[1] the Council appealed to the Legislature, the tax rate was raised and permission secured to fund a large part of the floating debt.

The Civil War was not without a marked effect on the city's finances. High prices of labor and material stopped all improvements.[2] Population rapidly increased; commercial and manufacturing enterprises prospered. Per capita expenditures rose from 1860 to 1865, but not so rapidly as in the decade following. For the larger part of the period from 1860 to 1870 it seems to have been possible to keep the expenses within the revenues. The following decade, however, witnessed the most reckless financial management in the city's history.

A tendency to close the year with a deficit appeared before 1870. In 1869 the Mayor deprecated the necessity of having to borrow money, and pay interest on it, to meet current expenses.[3] From this time until 1874 a large part of the cost of maintenance and operation was met by issuing bonds.[4] From November 1, 1869, to the spring of 1874 over a million and a half of bonds were issued to "pay odds and ends of unguarded current expenditures."[5] The cause of the evil was not far to seek, and the remedy was a simple one, though requiring a tenacity of purpose city officials seem to have lacked. "The most aggressive managers of the different departments," said Mayor Payne, reviewing in 1875 the conditions of the five years previous, "frequently invaded the other departments and appropriated their revenues without being brought to any accountabil-

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ity." [1] Such irregularities were encouraged, of course, by the lack of an adequate system of accounts and reports. Conditions are clearly revealed in the Mayor's recommendation in 1874, "that a *new policy* be inaugurated; that this year we spend no money for the ordinary purposes of the city not especially provided as the revenue for these purposes." [2] The reform movement prevailed. "No Council before the present one," the Auditor declared, "has ever adopted the theory, or insisted on the practice, of having every municipal department absolutely restricted in its expenditures for each year to the revenues accruing during that year." [3] The law was complied with in 1874 and again in 1875, each department having at the end of the latter year a cash balance,—in all departments a surplus of $274,445. So unusual was the enforcement of the law in this respect that the party in power in 1874 was suspected of acting for political effect. But when in the following year the opposite party continued the policy, the political character of the reform was subject to some doubt.[4]

The "new policy" inaugurated in 1874 was after all far from being the complete reform that official reports indicated. Breach of the law had not been confined to the general funds, special funds also being overdrawn; and an observance of the law in the case of the former but aggravated the evil in the latter. Bonds issued for special street improvements fell due before assessments had been made to pay them. When the Council failed to reissue the bonds the Treasurer was obliged to choose between destroying the city's credit and taking money illegally from other funds; he chose the latter as the lesser evil. In the three years preceding 1877 an average of $500,000 was used in this way.[5]

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The accounts showed everything in good condition; in all regular city funds a credit balance appeared. The market fund at the beginning of 1877 contained $91,118; at the close of the year $111,272. Yet when the market house and grounds were to be improved, it was found that not a dollar existed in this or any other fund.[1]

Once more retrenchment became the watchword. A similar condition existing throughout the state alarmed property holders who sought relief in the Legislature. An act[2] known as the "Burns Law" became effective in Cleveland, December 1st, 1876. Under it no contract involving expenditure could be entered into or any appropriation made by the Council or other authority unless the Auditor certified that the money required was in the treasury to the credit of the proper fund and not appropriated for any other purpose. Although it was argued that the act did not apply to special improvements, it was strictly construed in Cleveland. Reversing the customary order of procedure, it practically stopped all sewer-building and street improvements. By 1882 a demand for repeal or modification became general. Though admitted to be theoretically good, it was denounced as practically injurious and unworkable. "It has served a good purpose," the City Engineer urged, "during the years of financial depression in restricting improvements which were not called for and such as could be postponed until better times, but now that times have improved, very many improvements that have been laid over from year to year have become an absolute necessity, and must be made, or the city will suffer financially, and in a sanitary way."[3] An attempt to repeal

[1] *City Documents*, 1877, p. 30.

[2] Passed April 8, 1876, 73 O. L., 126. By special act Cleveland was

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the Burns law was opposed by the Council in 1881,[1] but less than a year later its Committee on Legislation reported a bill to secure the repeal.[2] A proviso was secured that in Cleveland funds in the hands of the Sinking Fund Commissioners of 1862, when set apart by ordinance for any particular purpose, should be considered as money in the treasury.[3] With important exceptions, especially in case of street improvements, the principle of the Burns law still obtains.[4]

A total expenditure in 1878 of $3,585,429, exclusive of debt payment, was reduced to $1,817,508 in 1880. In the period from 1880 to 1885 many departments exhibit a per capita expenditure lower than existed for ten or fifteen years before. But by the end of the decade the pendulum had swung to the other extreme, and again "the exigencies of the general financial condition of the city" absolutely required "the most stringent economy."[5]

Total expenditures for city government, schools, and library, as presented in the statistical tables, do not cover the entire cost of local government. The county as a separate unit expends nearly two millions annually. About eighty-seven per cent of the assessed value of property in the county lies within the corporate limits of the city. A somewhat smaller percentage of county expenditure is applied to governmental functions duplicating or paralleling the work of the municipal government. Expenses of elections, courts, finance offices, charitable institutions, *etc.*, are due in a large degree to the city. It would make for greater economy

[1] *Council Proceedings*, February 7, 1881.

[2] *Ibid.*, January 9, 1882.

[3] Act of January 19, 1882, 79 O. L., 55.

[4] *Municipal Code*, [illegible]

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and efficiency if the county proper could be limited to the territory outside of the city, as is the case with St. Louis; or, perhaps it would be even more practicable and desirable to make such cities as Cleveland and Cincinnati coterminous with the county, unifying their governments and financial administration, as is done in Philadelphia. In Boston also there are no separate county financial authorities; county and city budgets are one and the same.[1] A movement was actually set on foot by the Council in 1889 [2] to have the city made a county by itself, in order to do away with the expense of a double set of officers, it was alleged; but nothing further was heard of the resolution.

§ 51. *General Government.* 1. Expenditures on account of the Council and legislative offices include salaries of councilmen and council officials, the serving of notices on property owners, stationery and other miscellaneous and contingent expenses. Salaries of Clerk and Council have always formed the bulk of legislative expenditures. At first the Clerk received $100 a year and the councilmen $1 for each meeting attended,[3] but for members of the Council this was regarded as too large a remuneration.[4] A law enacted by the Legislature in 1841 [5] forbade aldermen and councilmen to receive any compensation whatever, and provided that no officer in the city should be allowed more than $200 in any one year as salary or compensation of any kind. This rule persisted for nearly a decade, the Clerk of the Council and the marshal being the first to profit by its repeal. In

[1] *Cf. Report on the Municipal Revenues of Chicago*, by Professor C. E. Merriam (Chicago, 1906), pp. 41-42, 46, 51.

[2] *Council Proceedings*, December 16, 1889.

[3] *Proceedings of the Council*, March 4, 1837.

[4] *Cleveland Daily Herald*, March 18, 1840.

[5] Act passed February 21, 1841, 39 O. L. A., 66.

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1850 each of these officers received $400.[1] The Clerk's salary had risen to $1800 in 1875, to $2,000 in 1885, and to $2,500 in 1890; it is now $3,000. Total expenses of the Council in 1893[2] were $25,204. From this they were gradually reduced to $18,206 in 1902. The new Municipal Code of that year increased the number of councilmen from twenty-two to thirty-two and fixed a maximum salary of $1,200 for each member.[3] The salaries of Cleveland councilmen were at once raised to the maximum, almost doubling the cost of the Council. In 1905 the regular expenses of the legislative department were more than three times as large as in 1902. Salaries paid to councilmen in 1902 aggregated $5,515; in 1905, $29,753; and in 1906 the appropriation was $40,400.

2. Under the first city charter the Mayor's salary was $300. The law of 1841 reduced it to $200, at which amount it seems to have remained until after 1850. In 1875 it was $3,000, under the Federal Plan $5,000, and it is now $6,000. The office force, contingent and other expenses of the Mayor's office cost about $6,000 more. During the period of the Federal Plan, salaries of the Mayor's Cabinet, or Board of Control, together with its clerks, are included in the expenses of the Mayor's office; and general expenses of the chief administrative officer, the Director of Public Works, are tabulated as "other executive offices." In the same way are treated, under the new Code, the Board of Public Service, with its clerks and general expenses. Practically no increase in the cost of executive offices has occurred since 1893.

[1] *Daily Herald*, March 18, 1850. The street supervisor was allowed forty per cent of the poll tax collected. This in 1850 yielded $505.65.

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3. Expenses of the legal department consist almost wholly of the salary of the Corporation Counsel, or Solicitor, his assistants and office force. In the earlier years counsel was employed for each special piece of litigation arising. The legal department of the government first became prominent in the decade 1870-1880, when a vast amount of litigation arose over special assessments. With the Federal Plan the cost of this department increased but slightly. The new Code has entailed increased expenditures incident to the interpretation of a new and unfamiliar body of law. It also added the duties of Police Prosecutor to the duties of the City Solicitor, necessitating a much larger force.[1]

4. Expenditures for finance offices obviously include salaries of Auditor and Treasurer, their assistants and office force, and general office expenses. The Department Examiner's salary, commissions to foreign banks, and salaries of the Board of Equalization and Assessment in certain years, are also included. Salaries of the Board of Review are now paid by the county. In Bulletin 50[2] little or nothing is reported as cost of assessment and collection of taxes in Cleveland and other Ohio cities. Technically this is correct. It is, however, an example of the way in which legal fictions vitiate the value of financial statistics. County officers in charge of tax assessment and collection have hitherto received for their services a percentage of all taxes collected in the county. Tax receipts as contained in the reports of the City Auditor, Board of Education and Library Board are always net, fees for collection having been deducted. Clearly these deductions are a part of the cost of

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auditor and treasurer, together with the tax inquisitor's fees, deducted from tax collections for city purposes, have been included in 1894 and thereafter with the receipts from taxes and other sources and are likewise charged to the finance offices of the city. In this way a closer approximation of the taxpayer's real burden for local government is reached. Financial administration is the largest item in the cost of general government.

5. Elections have entailed an expenditure about equal to that for the legislative department. A portion of the salaries of permanent election officers is paid by the county. The chief expense is on account of the large body of officials employed on election and registration days. Outlay for portable election booths, with the additional expense of care and storage, has been a considerable item in recent years.

6. Expenditures for public printing vary greatly from year to year, depending largely on the amount of business carried on by the various departments requiring official advertising. In 1875 $19,266,—$16,081 of which was for advertising,—was paid for printing. Apparently this figure was not reached again until 1903. State laws determine to a very large degree this class of expense. The large increase in 1903 was caused by the new Code, which required the publication of ordinances and resolutions in three newspapers, increasing the cost from $5,000 to $35,000 a year.

7. Expenditures for public buildings and lands, so far as the general government is concerned, relate almost exclusively to the City Hall. Prior to 1875 city offices occupied rented quarters in different parts of the city. In 1874 a building much larger than was needed for city purposes was leased at a cost of $43,000 per annum. It was hoped that by sub-letting space for stores and offices a

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substantial offset to this enormous rent might be secured, but the hope was not realized. The net cost of the building to the city has probably averaged $40,000 a year from 1875 to 1906.[1] Expenses include fuel, light, supplies, repairs, and salaries of employees, in addition to the largest items,—rent and taxes. The land and building constituting the City Hall property were purchased by the city in 1906.[2] Agitation for a new city hall resulted in 1892 in the establishment of a City Hall Sinking Fund.[3] Legislation in 1898[4] authorized an issue of $1,500,000 bonds and provided for a bi-partisan commission to secure land and to erect and furnish a city hall. To January 1, 1906, nearly a million dollars had been expended in acquiring the land and arranging preliminaries. Progress is now at a standstill owing to a lack of funds, an issue of $300,000 bonds to provide funds for beginning the foundations having failed to receive the necessary popular approval in a special bond election October, 1906. The building when completed will have cost approximately $3,000,000.

A scheme of public buildings known as the "Group Plan" has attracted much attention. In 1899, in view of the fact that at least four important public buildings were soon to be erected, the Chamber of Commerce took up a project for securing architectural unity. An act of the Legislature[5] gave the Governor of the state power, when requested by the city of Cleveland, to appoint a board of experts to control "the size, height, style and general appearance" of county and municipal buildings "for the

[1] *Annual Reports*, 1897, p. 1101.

[2] *Cf.* § 95.

[3] *Infra*, § 98.

[4] Act of April 19, 1898, 93 O. L., 549.

[5] Act of May 6, 1902, 95 O. L., 879.

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purpose of procuring, in their location and erection, the greatest degree of usefulness, safety and beauty." A Federal building is in process of construction at a cost of $3,000,000. A union station is also a part of the "Group Plan." A city hall, county building, and public library building will cost about $6,000,000. The total expenditure for land, buildings and improvements is estimated at nearly $14,000,000, exclusive of the Government building and the union station.[1]

8. Expenditure for courts has usually been treated in relation to the function of protection to life and property. It seems more accurate on the whole, however, to follow the census classification and regard the courts as a part of general government. Courts of two kinds are maintained by the city, namely, the police court and the courts of the justices of the peace. For a short time the city possessed a court of a higher rank than the police court. A court of record was created by the General Assembly in 1873, known as the Superior Court of Cleveland, which consisted of three judges elected by the people for a period of five years. It had jurisdiction in civil cases and was clothed with the same powers as the court of common pleas, within the limits of the city. The judges received $2,500 from the state and $2,000 from the city. To meet the expense of the Superior Court the Council was authorized to levy a general property tax.[2]

Salaries of judges and justices, and of court officers and clerks, are the main items of expense. Judges and officers of the police court are paid partly by the county.[3] Under

[1] *Vide* article by E. C. Baxter, *Review of Reviews*, vol. 31 (1905), pp. [illegible]

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police court, witnesses' and jurors' fees, and transportation of prisoners, figure as expenses. Office rent for the justices and the usual office expenses of both courts are smaller items.

The cost of the judicial function has not kept pace with population. At present expenditures are also low as compared with those of other cities.

9. Costs of court and judgments against the city, although a constant factor in the budget, vary greatly in amount from year to year. The budget and financial reports incorporate these costs in the maintenance of the Solicitor's office, but the two are kept distinct in this study, for obvious reasons.

10. From 1876 to 1893 the expenses of general government are reported in a single amount without analysis. Prior to 1875 nothing is given but the items of the general fund, often several hundred in number. These, however, could be redistributed to the several offices, were it not for a grouping of the pay-rolls in one lump sum. Moreover, the general fund before 1870 was drawn upon for a part of the cost of street lighting, care of bridges, health department and other municipal expenses. Caution should, therefore, be used in dealing with the totals prior to 1870. Nevertheless, the course of expenditures for general government is instructive. The average per capita expense for the quinquennial period 1846-50 was $0.11; from this it steadily rose to $1.49 in 1871-75. The retrenchment and economy forced on the city in the following decade brought it down to $0.76. In the period 1886-90 the figures stand at $0.91. No appreciable change occurred under the Federal Plan, the per capita cost being $0.92 in 1901. An insistent claim of Mayor McKisson that the cost of government as compared with population had been greatly reduced by the

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Federal Plan[1] was without foundation. A part of his error may be accounted for by the greatly exaggerated estimate of population that he used. Credit may, perhaps, be given to the centralized administration for keeping the growth of expenditures from exceeding the increase of population. Since 1902 a tendency toward a rapid per capita increase is evident.

§ 52. *Police.* The two principal functions grouped under the caption "protection to life and property" are the police and fire departments. These two are among the first objects to call for public expenditure.

The police fund was established in 1854; up to that time salaries of marshals and nightwatchmen had been paid from the general fund. In 1854 the total expense for police was only $7,554. The immediate effect of union with Ohio City and reorganization of the police force under state laws[2] was a disbursement increased to $17,639 in 1855; from this date until the Civil War no further increase occurred. The War increased expenses in two ways. Advance in the cost of living made it necessary to pay higher wages. By reason of frequent rumors of raids and incendiary attempts planned by refugees in Canada the force was augmented.[3]

A law of 1866 established a Board of Metropolitan Police Commissioners[4] and removed the police fund, with the tax levy for its support, from the control of the Council. A board of four commissioners, appointed by the Governor of the state, assumed full management of the police function. The purpose of this change is not clear, although the

[1] Mayor's Message, *Annual Reports*, 1898, p. xi.

[2] Act passed April 17, 1854, 52 O. L., 47.

[3] *City Documents*, 1864-65, p. 7.

[4] Act passed April 5, 1866, 63 O. L., 104.

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Mayor who was made an *ex-officio* member of the board was assured that it would prove to be worth while.[1] Friction at once arose. In two years the Legislature[2] abolished the board and all its powers were vested in the Mayor, pending the election of a board of commissioners by districts, "as more in accordance with the principles of our elective government."[3] Only a moderate increase in the force of the department and its expenditures occurred until 1872. In that year the law was again changed,[4] entrusting the government of the force to a Board of Police consisting of four elective commissioners and the Mayor. A force of eighty-seven men in 1870 was increased to one hundred and forty-four in 1872. Expenditure was nearly doubled. Dissatisfaction and distrust were rife. Mayor Payne publicly accused[5] the police of being in league with thieves and criminals. "Detectives from other cities," he declared, "refuse to consult with our force lest, forewarned, thieves or receivers of stolen goods may have time to hide them." Again the General Assembly was appealed to, and a new statute[6] governing the Police Board was enacted. By this act also the Board of Health was abolished and its functions transferred to the Police Board. The law of 1876 created a Contingent Fund to be controlled solely by the Police Board and used for expenses not otherwise provided for. It was to accrue from service of writs and marshal's fees.[7]

The cost of maintaining the department in 1887 was de-

[1] *City Documents*, 1866, p. 8.

[2] Act of April 2, 1868, 65 O. L., 45.

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scribed as "extraordinarily heavy,"[1] The salaries of the force had been increased by act of the Legislature.[2] In the same year also a police patrol system had been established, adding to the expenses. Under the Federal Plan expenses of maintenance gradually rose from $294,628 in 1891 to $426,-141 in 1902. In 1899 a campaign was launched for a greatly increased police force, the main argument apparently being that Cleveland did not have as many patrolmen as other cities of the same population. To a force consisting of 355 men the Superintendent of Police desired to add 200 patrolmen the next year,[3] though for immediate additions no funds were available.[4] Under the new Municipal Code the Board of Public Safety administers the finances of the police department. In its report for 1904 the Board declares that "the police department was never large enough to compare in size with other large cities."[5] On January 1, 1905, the police force consisted of 514 members, which the department wishes to increase to 1000 as rapidly as possible.[6]

Police pensions have come to add materially to the cost of this service in cities of over 100,000 population.[7] Relatively few of the smaller cities maintain any pension systems at all. The law establishing a Metropolitan Police Board provided for a "police life and health insurance

[1] Report of the Board of Police Commissioners, *Annual Reports*, 1887, p. 82.

[2] Act of March 18, 1887, 84 O. L., 110.

[3] *Annual Reports*, 1899, p. 695.

[4] *Council Proceedings*, August 21, 1899.

[5] *Ibid.*, 1904, p. 482.

[6] *Annual Report of the Chief of Police*, 1905, p. 12.

[7] Expenditures for the police department, as given in the Appendix, include payments for pensions; the City Auditor's report has not done so until recently.

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fund," made up of income arising from extraordinary services of the police force, and from the sale of unclaimed property. It was managed by a board of trustees. In 1881 the Life and Health Fund was abolished and a Police Pension Fund established.[1] The new fund received the balance of the old one and was to be kept up chiefly by one-third of moneys from all sources not otherwise disposed of by law, one-third of all money collected by the police court for the work of the police in serving writs, witness fees and fines imposed on members of the force for violating rules. The income of the contingent fund was thus much reduced. A board of nine trustees managed the fund, two of them being elected by the police force from their own number. The reorganization of the various departments in 1891 left the Police and Firemen's Pension Funds unaffected.[2] The law now provides a Board of Trustees consisting of the Board of Public Safety and five members of the department, elected by the members. The Council may provide for the fund by a tax levy not exceeding three-tenths of a mill. If not provided for in this way, an equal amount is taken from the liquor tax. The resources of the fund also accrue from fines on members of the department; from rewards, gifts, *etc.*, for extraordinary services; from unclaimed property and money; from bequests and from assessments on members voluntarily agreed to.[3]

§ 53. *Fire Service.* A very large part of the total expenditure of the village and the city under the charter of 1836 was for fire protection. One of the imperative duties of the trustees of the village was to "cause a good and

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treasury.[1] In 1829 a fire engine was purchased at an expense of $285, a treasury order being issued in payment, and this was regarded as such unwarranted extravagance that the trustees responsible for it failed of re-election.[2] By 1843 it became necessary in some way to reduce the expenditures for fire protection, which had "fallen with a heavy weight upon the resources of the city."[3] The Legislature came to the assistance of the city by exempting firemen from military duty, from labor on the highways, and from serving as jurors.[4] In 1847[5] each fireman was paid $1 a day in city orders for his services on "parade days," or about $0.62½ in cash. In view of the privileges of firemen it was suggested that the cost of the department could be reduced if those orders could be brought to par.[6] No reduction was effected, the annual expenditure rising steadily until in 1870 it reached for the first time $100,000. The rapid rise at this time was attributed to the growth of the city and an increase of property in need of fire protection,[7] but when two years later it reached $228,346 this explanation was regarded as insufficient. "I cannot resist the conviction," said the Mayor, "that some of this outlay should have been dispensed with or postponed."[8] In three years $200,000 had been transferred to the fire fund, and yet in 1873 $95,760 belonging to other departments had

[1] *Cleveland Herald*, August 22, 1820.

[2] S. O. Griswold, "Corporate Birth and Growth of Cleveland," *Western Reserve and N. O. Hist Society Tracts*, vol. ii, no. 62, p. 301.

[3] Inaugural Address of Mayor Starkweather, *Daily Herald*, March 19, 1844.

[4] Act of March 13, 1843, 41 O. L., 101.

[5] Ordinance passed June 29, 1840; repealed August 31, 1847.

[6] *Daily Herald*, March 15, 1847.

[7] Report of Chief Engineer, *City Documents*, 1870, p. 78.

[8] *City Documents*, 1873, p. 22.

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been appropriated. Evidently the fire department had a manager of the "aggressive" type, who had caused so much trouble with the finances.[1] Investigations by a special committee of the Council resulted in a state law transferring the fire department from the Council Committee on Fire and Water to a Board of Fire Commissioners, consisting of five members appointed by the Mayor and Council.[2] The new administration was able to effect a reduction of twenty-five per cent in the expenses without reducing the equipment or diminishing the protection to the large amount of new territory.[3] A supplementary act in 1874 made the Mayor and the chairman of the Council Committee on Fire and Water members of the board.[4] A check was placed on its expenditures by requiring a vote of a majority of the members, taken by yeas and nays and entered on the minutes. For contracts involving more than $500 the approval of the Council had to be secured and the award made by competitive bidding. These financial powers were left unaltered by a radical change in the composition of the board in 1876.[5] The Mayor was dropped, the Chairman of the Council Committe on Fire and Water retained and four resident freeholders were elected annually for a term of four years. The board elected its own president and appointed as secretary some one not a member of it. The reason for making the board elective at this time is not apparent. During the year 1875 severe retrenchment had been effected, the total expenditure being but $149,895. For the first time in the history of the paid fire department the year was closed without debt.[6] A saving of $12,000 a year had been effected

[1] *Supra*, p. 120. [2] Act passed April 29, 1873, 70 O. L., 188.

[3] *City Documents*, 1874, p. xxii.

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by dismissing twenty-eight "stationary" men and substituting fifty-six "minute men" at $240 per annum.

For some years the Board of Underwriters had paid a salary of $280 a month to a Protection Company, but in the spring of 1877 this support was withdrawn and the company disbanded.

Expenditures could not be kept for a long time at the point to which they were reduced in 1880 and 1881; the Board soon felt its facilities to be inadequate. In 1887 it reported to the Council that while the best authorities agreed there should be one company to each square mile of territory, Cleveland had only fifteen stations for twenty-seven square miles.

The organization of the Board was changed again in 1886. The Mayor was returned as president, and the chairman of the Committee on Fire and Water of the new Board of Aldermen added, making seven members in all. When the Federal Plan abolished the board of commissioners in 1891, the expenditures of the department were $286,852; in 1901 they had increased to $633,805. Under the management of the Board of Public Safety the figures will probably reach $700,000 in 1907.

Just as in the police department, a part of the increase may be attributed to liberal provisions for pensions. A voluntary Fire Relief Association was organized in 1868, supported by initiation fees, monthly dues from firemen [1] and donations from the public. In 1880 the work of the private association was supplemented by a relief fund for disabled firemen,[2] consisting of a part of the tax on the gross receipts of foreign insurance companies. By the original law the fund was in control of a board consisting of

[1] *City Documents*, 1873, p. 180.

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the Mayor and the Board of Fire Commissioners. An amendment in 1883 enlarged the body by the addition of two persons elected by the department from its own members;[1] other minor changes were made in the board in 1886 and 1890.[2]

Special pension acts had become numerous in the state in 1902, when a general act was passed[3] providing police, fire and sanitary pension funds by taxation. The Council is authorized to levy not more than three-tenths of a mill for the firemen's pension fund, and in case it neglects to provide sufficiently by tax levy, an amount equal to the maximum can be taken from the proceeds of the liquor tax. The new Code retains the law of 1902 and also gives the Council power to provide from the fire or police funds for relief of members temporarily or permanently disabled in discharge of their duty.[4] Annual payments in Cleveland amount at present to about $60,000. Only four other cities in the country make so liberal a provision in this respect.[5]

§ 54. *Protection to Life and Property,—Conclusion.* Other minor expenditures fall under protection to life and property. An armory to accommodate the Ohio National Guard was erected in 1879, the Legislature having authorized the Council to levy a tax of three mills and make a temporary transfer of funds from the market to the armory fund.[6] Under a special act[7] of the next year was organ-

[1] Act passed March 29, 1883, 80 O. L., 86.

[2] Acts of April 30, 1886 (83 O. L., 108), and April 18, 1890 (87 O. L., 1227).

[3] Act of April 23, 1902, 95 O. L., 223.

[4] § 155.

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ized a Gatling Gun Battery, subject to the Mayor's call in case of riot or insurrection. Later, for a period of years —1894 to 1901—the city bore the expense of janitor service for the armory. Small amounts have occasionally been spent on cattle and dog pounds.[1] The "inspection fund" in the municipal accounts relates solely to the cost of inspecting the street improvement work done at the expense of private parties. Expenses of the building inspector[2] and smoke inspector are included here, so far as they can be determined from the Auditor's report.

The total per capita expense for protection of life and property varies directly with the size of a city. The Bureau of the Census divides into four groups the one hundred and fifty-one cities of the United States having a population of over 30,000, placing in Group I the fourteen cities with over 300,000; in Group II, the twenty-five cities of 100,000 to 300,000; in Group III, the forty-five cities between 50,000 and 100,000; and in Group IV, the sixty-seven with a population between 30,000 and 50,000.[3] The per capita expense of protection to life and property in Group I was in 1904 $4.41; in Group II, $3.06; in Group III, $2.58, and $2.31 in Group IV. Although Cleveland in population falls in

[1] Expenses incurred on account of pounds, being paid from the general fund, cannot be tabulated separately. Cattle pounds in 1876 cost $4,884 and dog pounds $1,573. "The large tracts of unoccupied lands within the city limits, upon which the owners of cattle in every part of the city claim and exercise the right (not legal) to pasture them, necessitate the employment by the city of a large force of keepers to prevent these animals from making depredations upon improved property." (Report of the Board of Improvements, *City Documents*, 1876, p. 87.)

[2] The department of building inspection was created in 1888. Its expenses in 1889 were $5,264; in 1904, $8,271. A boiler inspector receives $1,500 a year. The sealing of weights and measures costs about $2,500.

[3] In the following pages "Group I, Group II, etc.," will have reference to this arrangement.

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Group I, her expenditures under this head averaged in the period 1901-1905 but $2.91, or $0.15 lower than the average for Group II.

Reference to the diagram [1] will show that the largest relative growth of expenditures occurred before 1875. Beginning in 1846-50 at $0.20 for each person in the city, $2.59 was reached in 1871-75. Severe economy effected a noticeable reduction in the following decade. In 1896-1900 almost exactly the level of 1871-75 reappeared, and this, it is noteworthy, is exactly the figure for Group III in 1904. The present tendency is toward a rather rapid increase.

§ 55. *Health Department.* Public expenditures for health protection apparently began in 1832 when an epidemic of "Indian cholera" visited Cleveland and other lake towns. For this emergency a temporary board of health was created. Until 1850 the few dollars treated as expense of the health department were for "removing nuisances," the burial of dead animals, *etc.* From fear of an epidemic of some sort, in 1850 enlarged corporate powers were secured from the Legislature,[2] whereby the Council could establish a board of health with adequate authority, not only to enforce sanitary measures, but to collect costs from owners of property. Accordingly a Board of Health of three members was appointed, clothed with the usual powers and given charge of the hospitals.[3] Apparently little was done by this board. An Asiatic cholera scare in 1867 caused a great effort to "clean up." Alleys and gutters used as a place of deposit for garbage and other household waste were "always filthy and offensive," but under the stimulus of the cholera scare they were cleaned in some

[1] *Infra*, Appendix E.

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quarters of the city "as often as three times a month."[1] Regular expenditures for the health department begin in 1867 with the reorganization of the Board of Health under a general law.[2] Six members were appointed by the Council, the Mayor being *ex-officio* president. An annual report had to be made to the Council, although in matters of expenditure the Board was not subject to it.

Increased expenditure in 1873 and 1874, due to an effort to stamp out smallpox and escape another threatened epidemic of Asiatic cholera, was followed by the abolition of the Board of Health; it was made a part of the police department.[3] Expenditures were greatly reduced, but the change was denounced as an attempt to make political capital of the city's health department.[4] By 1880 the consideration that sanitary measures should be handled by a board having special knowledge and training in sanitary science gained the ascendency.[5] The General Assembly then reestablished the Board of Health, as it existed prior to 1876,[6] making it largely a body of physicians. It was now once more independent of the city's finance officers, the Council having only the power of approving its contracts. Though the Federal Plan again nominally subordinated the health department to the police department, the independence and efficiency of the Board was not impaired. The Code of 1902 created a separate Department of Public Health.

Expenses of general administration in 1905 amounted to

[1] Report of Health Officer, *City Documents*, 1867, p. 73.

[2] Act passed March 29, 1867, 64 O. L., 76.

[3] 73 O. L., 47.

[4] *City Documents*, 1876, p. 41.

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$15,288; $14,923 were used for "medical services" and medical supplies. The largest item was $27,466,—the pay-roll of the regular sanitary police. Inspection of food products and plumbing received $22,940. Including the pension pay-roll, the total health department expenditures in 1905 were $87,691: for 1907 the revised estimate was $144,550. Extraordinarily heavy expenses in 1901 and 1902 were caused by an outbreak of smallpox.

Sanitary police were first authorized in 1886,[1] the number being limited to one for each fifteen thousand inhabitants and their salary to $780. The total number employed in 1904 was twenty-four. Following the example of the police and fire departments, a sanitary pension fund for Cleveland was established in 1896.[2] This law was superseded by the general act of 1902,[3] providing for fire, police and sanitary pension funds. Income accrues from a general tax limited to one-thirtieth of a mill, fines imposed on members of the force, penalties for violations of laws and ordinances the enforcement of which is entrusted to the health department, fees and licenses collected, gifts and voluntary assessments. The latter are unused in the sanitary fund, although for the fire and police funds assessments are paid by members. Formerly a part of the tax on foreign insurance companies was credited to this fund.[4]

§ 56. *Sewers.* Cleveland's sewer system dates from 1860. With the installation of a water-works a general system became necessary. Not being able to find in the statutes any authority for raising the funds to construct sewers, the Council appealed to the Legislature and secured a law per-

[1] Act passed April 30, 1886, 83 O. L., 115.

[2] Act passed April 27, 1896, 93 O. L., 304.

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mitting their construction by special assessment.[1] By this act authority was granted to borrow money for the construction of main sewers and to divide the city into as many as six sewer districts in which taxes could be levied independently, for each according to its needs. The law also authorized special assessments by the front foot method, on the principle of benefits, or according to the value of the property on the tax list. For the construction of main sewers five districts were defined in 1860.[2] From time to time the boundaries of the original districts have been amended and new ones added, so that at present they number twenty-six. Sewer district levies were abolished by the Code of 1902, although the Sinking Fund Commission has power to make levies to pay the principal and interest of bonds already issued in these districts. After these obligations mature and are paid, all main sewers will be constructed by uniform levies on all the property of the city. Taxes levied in the various districts in 1905 to meet the expenditures of 1906 varied from nothing at all in four districts to $10 per $1000 in one, the total amount levied being $305,076.

By 1867 nearly fourteen miles of sewers had been constructed; in 1873 it reached fifty-one miles; and in 1903 the total length was 349 miles. As early as 1875 it became apparent that a system of main and branch sewers, however complete in itself, did not solve the sanitary problem by merely collecting and dumping the sewage into lake and river. The problem of sewage disposal seemed to require a more thorough consideration than the City Engineer, burdened with other work, could give to it. Accordingly a River and Sewer Commission was appointed to make full

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investigations, and report to the Council a plan of sewage disposal, with estimates of the probable cost.[1] Because no appropriation had been made to meet its expenses the Commission did nothing, and no further action was taken until 1895, when a commission of experts was appointed[2] to investigate the sewage and water systems and report, among other things, comprehensive plans for sewage disposal. In due time this commission reported, recommending the construction of an intercepting sewer. A Citizens' Committee of prominent business men, appointed by the Mayor to consider important public improvements projected, concurred in the report of the commission of experts. The "interceptor" was therefore undertaken and has been the cause of a large part of the outlays for sewer construction since 1900. An "Intercepting Sewer Fund" is maintained by the issuing of bonds.[3]

Since 1894 sewers are charged with an annual expense for maintenance. Previous to that time published reports do not permit a separation of outlays from expenses for repairs, cleaning, *etc.* Outlays for sewers, as for other improvements, vary considerably from year to year. Comparable statistics relating to other cities are not available for a series of years. The following table will show what Cleveland is now spending in comparison with other municipalities.

[1] *Proceedings of the Board of Councilmen*, August 15, 1887; November 14, 1887.

[2] Ordinance passed June 24, 1895.

[3] In 1900 the Chief Engineer reported that, "owing to the inability

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Total Expenditures for Sewers, 1904.

New York	$2,816,044	San Francisco	$77,705
Chicago	1,708,304	Pittsburg	118,468
Philadelphia	743,610	Cincinnati	319,864
St. Louis	463,643	Detroit	183,445
Boston	1,824,463	Milwaukee	236,157
Baltimore	52,855	New Orleans	1,595,269
Cleveland	1,099,689	Washington	956,020
Buffalo	137,550	Newark	268,137

Both house and curb connections for sewer and water are made and repaired at the expense of the property-owner, under the supervision of the Engineer, as a special department of the Board of Public Service.

§ 57. *Street Cleaning.* Modern sanitary science insists on clean streets as a necessity of prime importance. Other valid reasons for public expenditures for the purpose can be adduced, but sanitary reasons predominate sufficiently to allow them to be classified under this heading. As early as the middle of the century Cleveland recognized some relation between the condition of the streets and the health of the community. "The City Council," said the Mayor, in 1852, "has heretofore adopted the plan of having the streets thoroughly cleaned on the opening of each new year, and the great benefit arising from this policy is evidenced in the general good health of the citizens during the summer months." [1] Expenditures for street cleaning began to be a regular item in the budget in 1878.

The chief problem in administration has centered in the merits of the contract system versus direct municipal management. To meet changing ideas on this point the Legislature has been called upon now to enact and now to repeal the authority for each method. The Board of Improvements in 1877 was required to divide the city into districts

[1] *Daily Herald*, April 19, 1852.

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and let contracts in each for cleaning the streets.[1] Within the next ten years the contract system was abolished twice, at least, and the direct system adopted.[2] Under the Federal Plan a system of contract at a given price per mile each time cleaned was followed, with satisfactory results for a time.[3] Improvement was introduced in 1895 by substituting in contracts the "square" of 10,000 square feet for the linear mile. Investigation of alleged abuses of the contract system in 1898 called from the Director of Public Works figures to show that between 1891 and 1898 the number of miles of paved streets cleaned each year had increased between three and fourfold, and that the cost per mile had been reduced more than one-half;[4] but dissatisfaction with the system continued. The new Code authorizes both the contract and direct systems.[5] In 1903 the cleaning of paved streets was taken from the street department and organized as a sub-department.

Technical changes in the process of cleaning have probably had less influence on the cost than organization and business-like methods. In 1879 all work was done by hand. The adoption of sweeping machines in 1883 added to the cost of the work.[6] Although the system of flushing, now being tried on a large scale, is apparently more expensive than sweeping, any increase in the cost is believed to be offset by the superior sanitary and general results.[7]

Beginning in 1899 constant complaint has been made that

[1] Act of April 21, 1877, 74 O. L., 103.

[2] 79 O. L., 76; 84 O. L., 67.

[3] Report of the Director of Public Works, *Annual Reports*, 1895, p. 267.

[4] *Council Proceedings*, November 28, 1898.

[5] § 65. [6] *Annual Reports*, 1883, p. xvi.

[7] *Council Proceedings*, November 20, 1905.

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the department is hampered in its work by a lack of funds. "This city has not in the past," it was asserted, "and will not in the immediate future, allow a sufficient sum of money to properly clean its streets." [1] A comparison with other cities for 1903 and 1904 would tend to show that Cleveland now spends more than many other municipalities. The following table is based on statistics taken from Bulletins 20 and 50, and represents only expenditures for sweeping or flushing paved streets. Comparison is therefore made with the area of paved streets within the city.[2] However, with the cost per given area the kind of pavement to be cleaned should be specified. The facility with which different paving materials may be swept or flushed varies

[1] Report of the Director of Public Works, *Annual Reports*, 1899, p. 264; 1900, p. 272. This complaint was doubtless well founded. In 1901 a trifle over $50,000 was paid out for the cleaning of paved streets, but that amount was more than doubled the next year, and in 1905 had increased almost fourfold.

[2] The Director of Public Works in 1899 concluded, on a basis of population, that other cities were spending far more for street cleaning than Cleveland. This, to say the least, is a very crude method—so crude as to be positively erroneous. A report of the Municipal Sanitation Committee of the Cleveland Chamber of Commerce, on Street Cleaning, adopted November 15, 1904, strongly recommended cleaning by flushing, and found that "the sum of money appropriated for the purpose is insufficient to provide for the proper cleaning of the streets" (p. 10). The statistics offered by the Committee are most inaccurate and misleading. Taking eleven of the fifteen largest cities of the United States, it was found "that Cleveland, both in proportion to her population and mileage, has the smallest appropriation" of any one of them. Population has little relation to the cost of cleaning paved streets; mileage is a better basis; but in the report of the Committee, Cleveland's 350 miles of unpaved streets are added to her 225 miles of paved streets, whereas for all other cities only miles of paved streets are used in the calculations. The table below, based on the area of paved streets in 1903 and expenditures in 1903 and 1904 (*Bulletins* 20 and 50), gives a very different result, although it does prove that certain other cities spend larger amounts than Cleveland.

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greatly. It would obviously not be fair to compare the expense in Cleveland, where there are no cobblestone pavements at all, with that in Baltimore, which had in 1903 373 miles of cobblestone out of a total of 491 miles.

Average Amount Expended per Square Yard for Cleaning of Paved Streets.

	1903.	1904.		1903.	1904.
New York	$0.174	$0.181	Pittsburg	$0.057	$0.073
Chicago	.009	.010	Cincinnati	.036	.037
Philadelphia	.037	.054	Detroit	.027	.030
St. Louis	.048	.064	Milwaukee	.013	.014
Boston	.051	.056	Washington	.036	.036
Baltimore	.029	.032	Columbus	.018	.006
Cleveland	.032	.035	Dayton	.004	.012
Buffalo	.021	.020	Toledo	.037	.015
San Francisco	.041	.042			

§ 58. *Night Soil.* The removal of night soil from premises not possessing sewer connections was supervised by the Health Department until 1903. Previously to 1873 garbage and night soil were not removed beyond the city limits. The method adopted about this time was to load it in scows, tow it out into the lake and dump it to the east and north of the city. Until 1891 fees for removal were collected by the health board, but not paid into the city treasury.[1] Contracts were also let and contractors paid without check or supervision. In 1891,[2] as a result of investigations revealing irregularities in the letting of contracts, the Council passed an ordinance requiring money received for removal of night soil to be paid into the city treasury and to constitute the "night soil fund." Pay-

[1] Statistics of receipts and disbursements prior to 1891 are derived from the reports of the Board of Health. Before 1880 and from 1880

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ments to contractors were to be made on estimate of the director of police.

The practical disappearance of unsewered streets, except in annexed villages and remote districts within the city limits, gradually increased the cost of collection. Contracts at $1.90 a cubic yard expired in 1903 and a rate of $2.50 was demanded for a renewal. The city, therefore, purchased the equipment and assumed the work. Without charging more than the former contract price the department showed net earnings of $854 in 1904.

§ 59. *Garbage Collection and Disposal.* The problem of collecting and disposing of garbage has only within the last few years been put in the way of solution. Removal and destruction were largely left to each household until after 1875. Originally the city paid a certain definite sum each year for removing "garbage and swill," but the plan was a "failure and a swindle."[1] In 1885 the method was changed and contracts by the cubic yard were let to the lowest bidders. Still the old difficulty of securing prompt and regular service was not removed, especially where distances were great and quantities small. Agitation was begun in 1887 for a general system of collection to be maintained at the expense of the city,[2] but a more sanitary method of disposal was also necessary. From 1892 to 1897 this question was uppermost. The situation in 1895 was concisely stated by Judge Wing in a letter to the Council:[3]

It is a matter of common knowledge that at present whatever garbage is collected, is collected by licensed scavengers who make their visits irregularly and infrequently, and who

[1] *Annual Reports*, 1884, p. xx.

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make no other disposition of the garbage collected than that which very little, if any, diminishes its unsanitary effect upon the community. Garbage is either removed from one portion of the city and dropped in another, or it is dropped into the lake to assist in polluting the waters which at so great expense are to be pumped back to be used in the households.

In the condemnation of existing methods the Citizens' Committee joined and urged the adoption of a "proper and modern" system for the collection and disposal of garbage. Systems in use in various large cities were investigated, and finally in 1898 a five years' contract was made with a private company for collection, removal and destruction of kitchen garbage and dead animals. Under the terms fixed upon, the city paid $69,400 per year, and retained the option of purchasing the plant at the expiration of the contract in 1903. The agreement was subsequently extended until the spring of 1905, when the company refused to renew its contract at what was regarded as a reasonable price. Bonds for $155,000 were therefore sold and the land and plant purchased by the city at a cost of $87,500. The income of the plant from sale of by-products in 1905 was over $60,000. With an increase of twenty-three per cent over 1904 in the amount of garbage collected and reduced, the plant was operated in 1905 at a cost to taxpayers of $2,846 less than was paid by the city each year under the contract system.[1]

The total expenditure for health conservation and sanitation is now very much greater in proportion to population than ever before in the history of the city. Prior to 1860 it was inappreciable. In the years 1861-1865 per capita

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$1.17, then $1.49, but it fell greatly in the decade 1875-1885. Beginning with $1.02 in 1886-1890, it rose to $1.29, $1.98, and in the five-year period just closed an average per capita expenditure of $3.54 was reached. Compared with other cities this is extremely high. The per capita expenditure for 1904 in Group I is $2.70; Group II, $1.97; Group III, $1.67; and Group IV, $1.39. The largest item under this general class of expenditure is, of course, outlay for sewers. Cleveland for the last half-decade has spent large sums on the intercepting sewers, but with the completion of this work, expenditures will undoubtedly fall back to the level of those in Group I, possibly of Group II.

§60. *Highways.* The attempt to separate the cost of general administration from other expenditures for highways has succeeded with a fair degree of accuracy only since 1894. From 1837 to 1875 the results are unsatisfactory. Small amounts or nothing at all in many years indicates the imperfection of accessible data. The cost of administration, however, did fluctuate greatly from one period to another.[1] Under this head are included the salaries of the chief engineer and his assistants,[2] together with instruments and general office expenses; the salary of street superintendent and his office expenses are also included.

General street expenditures include the expense of repairing streets, the cleaning of catch-basins, and all work on unpaved streets. Outlays of a general character are for the improvement of street intersections, which the city itself is required to bear, and for grading, curbing and cross

[1] In 1876 or 1877 twenty-five assistants and clerks were employed in the city Civil Engineer's office; in 1881 there were only six men so employed. (*Council Proceedings*, March 28, 1881.)

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walks. Labor and materials for private work have in the last few years been quite a large item, although as the city is reimbursed for this it is, in a sense, not actually a part of the municipal outlay. In general, it may be said that expenditures described as "general street expenditures" consist of all money spent in any way for construction and maintenance of streets, excluding, first, the cleaning of paved streets which is treated as a sanitary function; secondly, general administration as far as possible; thirdly, paving, although prior to 1881 this cannot be separated successfully in most years; fourthly, sidewalks, which are primarily constructed by property-owners.

The frequent changes back and forth from the contract system to the direct method have been noted in connection with the cleaning of streets,—one part of the work of the street department. The management of the street fund prevailing before 1875 is characterized as "defective and wasteful." [1] At that time it was committed to the Board of Improvements, the street commissioner being allowed to make expenditures only on its authority. In 1876 the street department was the only one which did not reduce its expenditures to its revenues. The day labor system and political manipulation were blamed and the change to a contract system effected.[2] The extravagance of street and other expenditures, indulged in so freely from 1870 to 1880, is well illustrated in the amount of land acquired by expropriation. In 1872 [3] the law was changed so as to allow the cost of street opening and widening to be paid by special assessments on property benefited. The following table

[1] *City Documents*, 1876, pp. 27, 265-6.

[2] [illegible]

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indicates the amount paid for land appropriated for street and other purposes from 1872 to 1879:

Year.	*Amount paid for land appropriated.*
1872	$742,872
1873	741,145
1874	247,426
1875	169,712
1876	58,800
1877	318,186 [1]
1878	5,360 [2]
1879	200

For much of the land purchased to open new streets highly speculative prices were paid. When the real-estate bubble collapsed, property was unable to pay the special assessments.

The statistics show that per capita expenditures for highways for 1901-1905 are exactly ten times what they were in 1846-1850. In the rapidly ascending curve [3] the first prominence occurs for the period 1851-1855. The union of Ohio City and Cleveland needs only to be suggested to account for a measure of the increase. Another cause is revealed in Mayor Castle's words in 1855. "During a few years of almost unexampled prosperity the community with a generous liberality has voted to commence a system of general improvement and advancement." [4] "A general revulsion," he continues, "in almost every ramification of business affairs" demanded the suspension of all extraordinary expenditures. The largest expenditure on high-

[1] For lands purchased on the east side of the river for construction of the Viaduct.

[2] $600 for bridge purposes, the balance for schools.

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ways in proportion to population in the history of the city is found in 1871-1875. The causes of this condition will be made sufficiently clear in the succeeding sections. The average per capita expenditure for 1901-1905, including outlays and expenses, is $3.91, which is about midway between the average of Group III and Group IV, as indicated by the following table:

Per Capita Expenditure for Highways, 1904.

	Outlays.	*Expenses.*	*Total.*
Group I	$3.56	$1.59	$5.15
Group II	2.76	1.92	4.68
Group III	2.61	1.77	4.38
Group IV	1.75	1.64	3.39
Cleveland	2.09	1.64	3.73

§ 61. *Paving.* Paving forms by far the most important item in the expenditures for highways. Aside from the "planking" of a few prominent business streets, no pavements were laid until about 1860. In urging the paving of business streets the Mayor remarked in 1859 that in the construction of the one hundred miles of streets within the corporate limits "little more has been required . . than for any similar extent of road in the country."[1] The Civil War by raising the price of labor and materials interfered with the prosecution of this work. Nevertheless, by 1874 the city had forty-two miles of paved streets, paid for almost wholly by special assessments. In the fifteen years from 1874 until 1889 only twenty-four miles of new pavement were laid. A large part of the forty odd miles put down before 1876 had to be relaid in this period. Paving was begun in 1859 with Medina stone, but from 1866 to

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monstrated that stone was the only economical material that had been used. The Board of Improvements confessed that "We have had a bitter experience in the use of paving materials in the past, and all those streets that have been paved other than with stone must soon be repaved." [1] Many pavements were in a very bad condition and the cost of repairs was enormously increased. Fearing that a second assessment would be made for repaving, interested property holders secured the passage of a law [2] providing that in Cleveland when the original paving had been paid for by abutting property owners, from the entire cost of repaving should be deducted the share to be borne by the street railway companies and the remainder divided equally between the property owners and the city. The Council Committees on Finance and Legislation disapproved the bill, declaring that such authority was not sought. It became law nevertheless, and for several years the city's half of replacing worn-out pavements was paid from the Sinking Fund of 1862.[3]

The second period of greatest activity in street paving began in 1890, when a special committee of the Council was appointed to investigate the practice of Eastern cities as to materials used, and methods of meeting the expense. After visiting most of the important cities of the East the committee reported that they were all ahead of Cleveland in the mileage of paved streets, adding that "the few streets paved and the abundance of dirt and mud in the streets of our city are indeed a disgrace." Medina stone, which had been in use in Cleveland thirty years and in Buffalo fifty years, was the material recommended.[4] This report started

[1] *City Documents*, 1881, p. 228.

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the machinery of legislation for paving a large number of streets. Expenditures in 1893 exceeded $800,000, but were not equalled in any following year until 1905. Material used at this time was Medina stone; practically nothing else had been laid since 1876. Dressed stone block with bituminous cement filling came into use in 1879. In 1887 and 1888 a small amount of brick pavement was put down for private parties, but its durability was seriously questioned for any but the lightest traffic. Asphalt was not tried until after 1890. Paving of all kinds in 1897 aggregated 136 miles. On January 1, 1906, it had reached 284 [1] miles, 23 being of asphalt, 92 of Medina stone, 168 of brick. A little over one mile of wood is laid on bridges and viaducts.

The construction and repair of sidewalks have always been attended to by property owners when required by the Council. Only after the property holder has been notified to lay sidewalks and fails to do so within a given time is a special assessment levied and the work done by the city.

§ 62. *Street Lighting.* Street lighting has from the first been a large item of expense to the city. Until 1850 oil lamps were used exclusively. In that year artificial gas was introduced, the Cleveland Gas Light and Coke Company having been incorporated in 1846 and a franchise granted by the Council in 1848. The original franchise permitted a maximum rate of $3.00 to private consumers, which, it was claimed, would reduce the cost of light fifty per cent. For public use the price was not to exceed that paid in Buffalo or Cincinnati, which at that time was $1.50. The cost of public lamps was estimated at $30 a year [2] but

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demanded for private consumption. In 1879, out of 4,649 street lamps, 1,134 were for coal oil. In the period of expansion, beginning about 1870, expenditures increased rapidly. "Lighting the city," declared the Mayor in 1876, "has become a luxury of startling magnitude,"[1] and he proceeded to recommend that abutting property should pay for gas used, by special assessment. The Council in 1888 reduced the price which companies could charge for public and private lighting from $1.25 per thousand feet to $1, and although the companies resisted, the courts sustained the city. In 1892 the Council again sought to exercise its power to reduce rates. The case was stubbornly contested through the state and Federal courts. Once more the city won and the price was reduced to $0.80, the companies in addition being required to pay into the city treasury semi-annually six and one-half per cent of their gross receipts.[2] Under these terms a ten years' contract was entered into. An ordinance in 1900 renewed the contract for another ten-year period, the price being fixed at $0.75 and the companies agreeing to furnish all lighting equipment, the city paying only for gas consumed.[3]

Until about 1900 the bulk of lighting expenses was for gas. Electricity has now taken first place. Although electric lighting originated in Cleveland and was first used there in 1879, other municipalities outstripped the home city in making extensive use of it. As late as 1894, when Cleveland had but 251 electric lamps, Cincinnati had 3000, Buffalo nearly 2000, and every important city in Ohio and neighboring states made a far greater use of electricity than did Cleveland. A similar condition still prevails.[4]

[1] City Documents, 1876, p. 41

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The entering wedge of municipal lighting has recently appeared. In 1903 the city took over the management of gas lamps. Private companies were paid $16.10 per lamp; the gas cost $6.46, making a total of $22.56 per lamp. With municipal management this was reduced to $17.38; and in 1904 each gas lamp cost the city $15.05. Vapor lighting was taken out of the hands of the private company in 1905. In 1903 the cost had been $22.37 per lamp, and slightly more in 1904. It is claimed that a saving of $6 per lamp can be made by municipal management.[1]

An unsuccessful attempt was made in 1903 to erect a municipal electric light and power works. By annexation of the village of South Brooklyn in 1905 the city acquired a small electric lighting plant, the capacity of which has since been trebled. Other suburbs that may soon be annexed have small electric plants. The policy of the present administration seems to be to use these small plants as competitors of the private company and perhaps to bring about ultimately full municipal ownership of all electric lighting.

The per capita cost of street lighting has shown little tendency to increase. In the period 1871-75 expenditure was $0.88 for each inhabitant. From this figure it decreased in the next two five-year periods to $0.72 and then to $0.54, which is the lowest point reached. In 1886-90 it rose to $0.60, the following period to $0.67, then fell to $0.64 in 1896-1900 and for 1901-05 was $0.63. Expenditure for lighting shows in the census groups a phenomenon different from any yet observed. In Group I the per capita expense is $0.54, which is lower than for any other group. Group II is the highest, being $0.80; Group III is $0.71

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that which is obvious enough—that there is no necessary relation between population and the cost of street lighting. The area of the city, or the total length of streets, would seem to have a more logical connection with this branch of expenditure. Data not being available for comparing length of streets and expenditures in 1904, we take area and find that the cost per acre progresses regularly from the smaller to the larger cities. In Group I the cost is $8.21; Group II, $7.65; Group III, $5.36, and Group IV, $4.01. The cost per acre of territory in Cleveland for 1904 was $11.82, or forty-seven per cent greater than the average for the fourteen largest cities of the country.

§ 63. *River and Harbor.* The Cuyahoga river and its tributary streams are subject to freshets which bring down to the lower course and deposit great quantities of sand and other detritus. Constant expenditure is necessary to keep the channel open for the passage of lake vessels. Soon after the village was incorporated the idea was conceived of constructing piers or jetties out into the lake on each side of the river, so as to confine the current to a narrow channel and force it to carry the material out into the lake, but both private enterprise and the village authorities failed to accomplish anything. The Federal government was then appealed to and in 1825 made an appropriation of $5,000 for the same purpose; Federal appropriations for dredging and improving the mouth of the river followed at short intervals until 1852, when the appropriations aggregated over $184,000.

No more Federal aid was forthcoming until 1864. In the meantime the city, left to its own resources, adopted the plan of special taxes and assessments. Special assessments

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commercial purposes. The immediate use made of the power was for the so-called Ship Channel Improvement to relieve the "encumbered harbor."[1] In 1863 the Council resolved to use this right to make assessments for dredging the river to a depth of thirteen feet, one-third of the cost to be paid from the general fund and two-thirds to be assessed upon abutting property;[2] later the proportion was changed to one-half from each source. Special stimulus to the work of keeping the river clear was given in 1874 and 1875 by a conviction that efforts were being made to divert from Cleveland her "immense coal and iron ore trade."[3] Greatly increased expenditures followed for a few years.

The work of dredging was done by contract. Investigation conducted by a council committee in 1882 showed that it was "very loosely and carelessly done, and to the great detriment of the interests of the city," and a minority report declared it to be "conclusively evident that collusion has for several years existed between the dredging contractors."[4] The remedy proposed was for the city to own and operate its own dredges, and an unsuccessful attempt was made to secure the requisite authority from the Legislature.[5]

The burden of special assessments on river-front property, the owners of which had long complained of the injustice of the tax, was increased from year to year by the increasing draught of lake vessels. In 1873 the average tonnage of vessels was 700 to 900; ten years later it had almost doubled, and it continued to increase rapidly. As an offset, however, to the greater depth of channel required,

[1] *City Documents*, 1856, p. 9. [2] *The Daily Herald*, April 29, 1863.
[3] *City Documents*, 1874, p. xxvii; 1875, p. xxv.
[4] *Council Proceedings*, June 12, 1882.
[5] *Ibid.*, February 18, 1884.

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the contract price per cubic yard of material removed was reduced from $0.29¾ in 1884 to $0.15 in 1890. Some ground doubtless existed for the statement of the City Civil Engineer that in " no other class of work contracted for by the city . . had there been so much lack of system and such an inadequate return for the investment as the dredging of the Cuyahoga river." [1]

In addition to the annual expense for dredging, large outlays have been made for what may be called permanent improvements. Expenditures for the Ship Channel Improvement in 1856-1859 we have noted above; in 1874 to 1877 the terminus of the Ohio Canal was moved in order to enlarge the facilities for commerce in the river. Authority was secured in 1896 to issue half a million dollars in bonds for widening and straightening the river.[2] Outlays for land and the work of improvement are still being made.

While the city has been maintaining and improving the river facilities, the Federal government has been engaged in creating an outer harbor. A breakwater begun in 1875 and completed in 1884, together with an extension begun in 1888, gave a total of two miles and a quarter of protected shore line. Work now under way at a cost of four and one-half millions will protect more than three miles of lake front. The total expenditures of the Federal government on the harbor at Cleveland from 1825 to 1902 amount to about $2,750,000.

The fact that other Lake Erie ports have been making rapid gains on Cleveland is attributed solely to her lack of harbor facilities. An outer harbor, now made possible by the government breakwater, is the only remedy, and a complete system of harbor improvement and wharf construction

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has been outlined by the United States Engineer. The property created by carrying out his scheme would have a value, it is estimated, of $35,000,000, and would produce an annual income of $1,750,000,—sufficient to meet the expense of maintenance and create a sinking fund to extinguish the debt in thirty-five to fifty years. It is not necessary to undertake the whole of the improvement at once. The city, however, should proceed immediately to acquire the necessary property rights for the completed harbor, and then construct docks as rapidly as the demand for them will warrant.

§ 64. *Bridges and Viaducts.* Cleveland is separated into two parts by a deep and narrow valley through which flows a navigable river. The consequence is that ever since the territory on either side of the river was united into one city, in 1854, constant and large expenditure has been necessary for bridges; and both outlays and expenses of maintenance have been increased from the fact that many draw-bridges have been necessary. In 1873 thirteen draw-bridges spanned the river within the city; at present about fifty bridges are maintained, ten or twelve of them being draws. Only four cities in the United States,—New York, Chicago, Philadelphia, and Boston,—spend as much as Cleveland does for the maintenance of bridges other than toll.[1]

The most important structure so far erected is the "Superior Viaduct." Construction of a "high level" bridge across the Cuyahoga valley, for many years a dreamed-of possibility, was definitely proposed in 1870.[2] So great an outlay required special authority from the state, which was

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of bonds; but as the work progressed the original amount became quite inadequate and authority to issue $1,600,000 more was obtained.[1] The total cost of the completed structure was $2,164,578, the necessary land having cost in addition $522,880. A supplemental viaduct act in 1878[2] provided for submitting to the people the question as to whether toll should be charged; an election was held and the people voted in favor of collecting toll. The Council, however, refused to take the necessary action and the redemption of bonds was thrown upon the general tax duplicate. Although viaduct bonds are still outstanding, the bridge has become inadequate and must soon be replaced or rebuilt at great expense.[3] The hope of Mayor Otis, expressed when the undertaking was begun in 1874, falls thus far short of realization. "The Council," said he, "should see that the structure is of such size and build as to afford safe and convenient transit across the valley for the next century."[4]

Only one other structure requires special mention in this connection. Next in importance to the Superior Viaduct was the Central Viaduct or Elevated Roadway, authorized by the Legislature in 1883,[5] begun in 1886, and opened in 1888. Its total cost was about a million dollars. This structure, like the Superior Viaduct, already requires rebuilding at an outlay almost equal to its original cost.

It seems quite probable that bridges costing from five to ten millions will be required in the near future, if the necessary funds can in any way be secured.

[1] Act passed April 6, 1876, 73 O. L., 107.

[2] Act passed April 6, 1878, 75 O. L., 523.

[3] A proposition to issue $1,000,000 bonds for this purpose was de-

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§ 65. *Abolition of Grade Crossings.* An object of expenditure new to Cleveland, but certain to require great outlay for many years, is the abolition of the grade crossings of steam railroads. The Council in 1898 took steps to have a grade crossing commission appointed. Two years later the Chamber of Commerce renewed the suggestion with the result that the commission was appointed and $10,000 appropriated to meet the cost of preparing plans and estimates. The difficulty of making satisfactory terms with the railroads was removed in 1902,[1] through an act of the Legislature by which the city, when the Council deems it necessary, may compel the companies to make the improvement. Half of the cost is then borne by the city and half by the railroads. The law also gives the municipality power to issue bonds and levy a tax in addition to all other authorized levies to pay principal and interest, as well as for maintenance and repair after the improvement is completed.

§ 66. *The Infirmary Department.* Oldest among Cleveland's charitable institutions is the Infirmary. As now organized the Infirmary Department of the Division of Charities and Correction embraces the city hospital, the tuberculosis sanatorium, and the out-door relief department, in addition to the home for aged and dependent poor, or the Infirmary proper. Until recently there was also an insane department; but in 1905 over one hundred insane patients were transferred to the state institutions. A pesthouse and detention hospital were several years ago transferred from the department of charities and correction to the health department.[2] Amounts reported under this head prior to 1850 were dispensed to the poor and needy in a

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city charter was obtained it was a controverted point as to whether the Council had a right to levy a tax for the support of the poor, the township authorities having previously been charged with that duty.[1] In 1849 an act was passed by the Legislature[2] authorizing the city of Cleveland to establish a poorhouse and hospital; a farm was purchased in the spring of 1852 and an infirmary building completed in 1856. At this time it was the intention to place in the institution all who became a public charge and to discontinue out-door relief, but the purpose was far from being realized. In the winter of 1858-59 business stagnation resulted in much unemployment and out-door relief was afforded to more than 1800 different persons. Though it was still held by the city authorities that more evil than good resulted from such expenditure,[3] the practice has never been abandoned. Expenditures for out-door relief supplies were, however, usually kept distinct in the accounts of the Infirmary Directors and the separation is maintained in this study. It will be seen that great variations occur from year to year. While in the Infirmary expenditures were kept at a very low figure, out-door relief expenses showed a constant tendency to swell beyond the regular income. When expenditures became so high as to call attention to the department, reduction was effected by the more adequate investigation of cases and stricter enforcement of rules requiring all able-bodied men to work for the provisions furnished them. In 1878 about two-thirds of such applicants refused to work, the expenditure for out-door relief being $32,356 in that year, as compared with $60,127 in 1875.

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In 1883 [1] the Board of Infirmary Directors was made appointive. All the charitable and correctional institutions of the city were by the Federal Plan of government under the Director of Charities. The new Municipal Code incorporates this department with the Board of Public Service.

The care of the incurable insane has been a considerable burden and the cause of prolonged controversy between the city and county authorities; as a result the city now turns these patients over to the state. Cleveland was one of the first cities to establish a separate hospital for the treatment of tubercular cases; the work was begun in 1903. The average number of patients treated in 1905 was eighty-two. The per capita cost of tubercular patients is greater than that of any other class.

§ 67. *Workhouse and House of Correction.* Special provision was originally made in the Infirmary for the accommodation of female and juvenile offenders. For other classes a city prison became a necessity and an institution was desired in which criminals could be made to earn their own keep. This had been done to some extent before 1861 by the street labor of the "chain gang." In the spring of 1867 [2] the city was authorized to issue bonds to erect a house of correction, or workhouse; the institution was opened in March, 1871, under the management of a board of workhouse directors.

The house of refuge for the reformation of juvenile offenders, who were originally accommodated in the infirmary building, was transferred to the House of Correction when the latter was completed. For many years afterward ef-

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Farm School, the fruit of this endeavor, did not begin its work until 1902. The work of the two institutions was, however, kept as distinct as possible, although the expenditures were made from a common fund and are therefore not distinguishable in the financial reports.

In the management of the Workhouse, during a large part of its existence, the ideal seems to have been to render it self-sustaining; and in nine years after its establishment this ideal was reached. The law permitted deficiencies in the expense of maintenance and administration to be paid by the Council, a tax being levied for the purpose as a part of the ordinary expenses of the corporation.[1] A statute of 1883 permitted the directors to contract with other towns and counties of the state for the care of their convicts.[2] Board was paid for such prisoners at a rate of $3.00 to $1.50 a week, depending on the length of the period, the larger amount being charged for the shorter period, because in so brief a time as thirty or sixty days, little value could be derived from the prisoners' labor.

Receipts and disbursements of the manufacturing department of the Workhouse are classified as of "Institutional Industries." Goods produced had to be adapted to unskilled labor. Brushes and paper boxes were at first turned out by the men, while boys in the refuge department were put to work at chair-seating, under contracts with manufacturers. Experience proved after a few years that brushes of various kinds, especially of the lower grades, produced the most revenue, chiefly because the processes are simple and more quickly learned than in the case of other articles; brushes are now the only commercial product of the institution. In recent years the House of Correction has not been

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self-supporting, receipts from care of prisoners and manufacturing not being equal to expenditures. This is due in part, perhaps, to a shortening of the average length of the prisoner's term of service, but a more fundamental reason is that the ideals of the management have somewhat changed. It is now distinctly understood that the work of correction is primary, the factory being subordinated to this end. In the Infirmary also the authorities claim to have abandoned the traditional method of maintaining the institution as cheaply as possible. To-day the purpose is to better the surroundings of the inmates, to maintain a "healthy, clean, and desirable" place to live.[1] The newer ideals mean greater expense without a corresponding increase in income.

It is apparently only a matter of a few years until all the city's institutions of charity and correction will be removed from their urban environment and established in the country. In 1904 850 acres of land were purchased in Warrensville, ten or eleven miles from the heart of the city, the money for the purchase being derived from the sale of some thirty-eight acres of the old Infirmary farm. In 1905 thirty or forty able-bodied inmates of the Infirmary were transferred to the "Farm Colony;" the tuberculosis sanatorium has also gone to the new location and it is planned to have the entire institution, with the exception of the hospital, follow in a short time. The House of Correction will be moved as soon as possible to land adjoining the Farm Colony. In 1905 the Board of Public Service was authorized to sell the city property, and from its sale it is hoped that sufficient funds will be realized to relocate the institu-

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§ 68. *City Farm School.* Agitation to have the House of Refuge separated from the Workhouse resulted in an act of the Legislature in 1886 [1] permitting the Council to sell bonds for the purchase of lands and the erection of buildings for a City Farm School. Accordingly the Council authorized an issue of $50,000, but at this point the project was blocked and not taken up again until 1901, although in the intervening years the plan was much discussed and a second law was passed in 1894.[2] In 1902, a farm of 123 acres was purchased near Hudson, Ohio, twenty-three miles from Cleveland; in 1903 more land was purchased, making a total of 285 acres. On this farm have been established eight cottages or homes for wayward boys where they live surrounded so far as possible by home influences. "It is an effort on the part of the municipality to have a kindly care for the lives of its unfortunate children." [3]

§ 69. *Charities and Correction, Conclusion.* Expenditures for the indigent blind cover the years from 1901 to 1904.[4] This class of charity was then transferred wholly to the county budget, and has since been declared unconstitutional.[5]

Since 1890 [6] the state has maintained a free employment bureau in Cleveland. Until 1902 the salary of the agent was paid by the city, all other expense being borne by the state.

Unlike the expenditures for every other group of municipal functions, those for charities and correction have not

[1] Passed April 21, 1886, 83 O. L., 89.

[2] Act of February 8, 1894, 91 O. L., 465.

[3] Report of the Director of Charities and Correction, *Annual Reports,* [illegible]

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shown a tendency to increase more rapidly than population. In 1851-55 the per capita expense was $0.61; in 1891-95 it was again $0.61, having in the meantime been as low as $0.40 and as high as $0.71 in 1876-80; for 1901-05 the average is once more $0.71. Private charity and privately organized charities account in part, probably, for the absence of increase which one is led to expect from what has taken place in other departments. For the reason that charities are not municipalized to anything like an equal degree in all cities, and the still more important reason that the division of the burden of both charities and correction between the city and other civil divisions varies greatly from state to state and city to city, comparisons are misleading. However, the data available for 1904 show the usual relation between the per capita expenditures for the different census groups of cities. Total per capita expenditures for charity and correction, including both outlays and expenses, are $1.36 for Group I, $0.85 for Group II, $0.58 for Group III, and $0.42 for Group IV. The average of $0.71 for the last quinquennial period in Cleveland is low as compared with other cities in Group I or with those in Group II. For the single year 1904, however, the figures for Cleveland are $1.03.

§ 70. *Schools.* Twenty-two and nine-tenths per cent of the total expenditures of the city for the last five years, excluding only payments for debt, have gone for education. No other function costs as much to maintain; and in the preceding quinquennial period education was exceeded only by highways. In sixty years the per capita expenditure for the entire population has increased from $0.50 to $5.52, while per capita expenditure based on the average daily attendance in the same time increased from $6.04 to $43.01. Some of the more important factors in this development are to be taken up in this section.

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Until about 1865 teachers' salaries formed seventy-five or eighty per cent of the school budget. Outlays for buildings were small and the chief item of expense, after tuition, was for fuel. A common school education was all that was afforded until 1846, when by the authority of the Council a high school was opened in rented rooms. It was claimed to be the first school of the kind in the West and met with strong opposition on the grounds of illegality and inexpediency. The people declared their willingness to be taxed for common schools, but they objected to supporting high schools and "colleges." A special committee of the Council reported that in their opinion the school was established in violation of law and that it was "inexpedient to support a high school at the charge of the common school fund." [1] In spite of a heated controversy the school was suffered to continue and at its next session the Legislature "authorized and required" the city to establish and maintain a high school. After the annexation of Ohio City a high school was demanded on the west side of the river; as the statutes permitted but one high school, the Council opened a "branch" on the west side to meet the want. In 1859 the law was so changed as to require the city to maintain a high school and a branch high school.[2] By the terms of the compact when East Cleveland became a part of the city in 1872 the high school in that village was to be maintained until abolished in a specified manner. Cleveland, therefore, had three high schools and as a consequence a system "more expensive than any other in the West." [3]

[1] Andrew Freese, *Early History of the Cleveland Public Schools* (1876), p. 32.

[2] Act of March 25, 1859, 56 O. L., 282.

[3] *Cf. Thirty-ninth Annual Report of the Board of Education*, 1875, p. 66.

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Development in the course of study of the high school also greatly increased the cost. At first two years, the course was extended to three years in 1851, and to four years in 1858. As originally established the high school was designed "to give instruction in the various branches of an English education." Latin and Greek were added in 1856, though strongly opposed in the Council. German was introduced in 1859.[1] Its introduction into the primary and grammar schools in 1870 was the cause of increased expenditures for public schools and the abolition of many private German schools. In 1873 the teaching of German in the lower schools was made obligatory.[2] Other cities about this time had attempted the same innovation, but gave it up as too costly. Special instruction in drawing and gymnastics found a place in 1874-1875.

The common school act of 1859 gave the City Council permission to establish and maintain one or more "industrial schools" for the benefit of destitute and neglected children.[3] The school had, however, long been discussed and like the high school had actually been established before legislative authority was sought.[4] The industrial school continued unaffected by the law of 1868. Although the act of 1873 contained no provision on the subject, and it was understood that all money expended for school purposes had been placed under control of the Board of Education, yet the Council continued to maintain two industrial schools. From 1870 to 1875 the expense to the city was less than $5,000 a year and about half the amount was donated in cash or kind. After 1875 the schools were continued

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Childrens' Aid Society,[1] although the General Assembly restored the authority existing before 1873,[2] and the Council was urged to take action. The industrial schools, it was claimed, were less expensive in proportion than other public schools.[3]

Expansion of the high school curriculum in the last twenty-five years is undoubtedly a chief cause of the increased expenditure; but additions have also been made in the lower stages of the educational process. In 1887 a private manual training school established two years before was added to the public school system by special act of the Legislature.[4] A private cooking school for girls also became a branch of this school and in 1890 a second manual training school was established. Each high school has now its manual training department and manual training has also been introduced into a few of the primary grades and even into the night schools and summer schools. The total expenditure for manual training was in 1905 $48,912.

A levy of one-tenth of a mill for kindergarten schools was authorized in 1897, and the next year expenditure for this purpose amounted to $12,298; in 1905 it was $44,280.

A school for deaf children was opened in 1893. Five years later the General Assembly pledged the support of the state for this purpose;[5] payments were made accordingly for two years and then withheld on the ground that the law was unconstitutional. The school has since been maintained from the common school fund, the total cost in 1905 being $8,763. State aid, however, to the extent of

[1] *Report of Industrial School and Home*, 1876, pp. 3-4.

[2] Act of March 12, 1875, 72 O. L., 211.

[3] *Council Proceedings*, May 25, 1875.

[4] Act of March 16, 1887, 84 O. L., 92.

[5] Act of April 21, 1898, 93 O. L., 186.

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$150 for each pupil, was again sanctioned by the Legislature in the spring of 1906.

Vacation schools were inaugurated in 1903, the movement having been set on foot by private initiative as early as 1895. Summer terms are now maintained in the high schools, grammar schools, primary schools, manual training schools, summer playgrounds and kindergartens. The summer school is a new feature but has large possibilities for usefulness and will probably require much greater support in a very short time; the same is true of the evening schools. Although authorized as early as 1853,[1] elementary night schools did not become a regularly organized feature of the school system until 1896. They have now become a practical necessity because of the presence of a large foreign-born population anxious to learn the English language and to acquire the rudiments of an education. A two years' high school course, including nearly all the subjects taught in the day schools, is being offered in the evening. The total expense of all evening schools in 1905 was a little more than $10,000. The wisdom of these extensions of the school system will not be questioned. They represent a fuller utilization of a large and expensive equipment provided from the public treasury for educational purposes; but, however wise the expenditure may be, it nevertheless contributes to the financial problem which school authorities in all large cities are compelled to face.

In 1839 the city erected its first school building. At that time two structures costing about $6,000 made a serious financial burden and until 1854 only $2,000 more was

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ing until after the War, so that by 1867 school facilities became most inadequate. A "mania for more room" [1] expressed itself in securing from the Legislature authority for the issue of $200,000 worth of bonds [2] and two years later of $150,000 more,[3] followed by much building. Then from 1870 to 1874 construction fell behind the increase of school population. Another crisis ensuing in 1875 was the excuse for continuing the policy adopted after 1870 of erecting what were known as "relief buildings." A relief building was a small two-room frame structure that could be moved from one locality to another wherever the need was greatest; heating and ventilation were bad and the floors cold. Yet in 1873 about one-fourth of the school accommodations was of this sort,[4] and the only excuse offered was "saving to the taxpayers." Such a room could be provided and furnished for about $500, while a room in a brick building cost $3,000. Adequate permanent construction was thus postponed until 1883, and when, delay no longer being possible, an effort was made to provide buildings, the cry of extravagance was heard. For twenty years one Board after another endeavored in vain to keep up with the increasing school population and to eliminate the basement, rented and "relief" quarters. On April 1, 1902, one hundred and forty-seven of these temporary and unhealthful class-rooms were in use. Responsibility for the condition

[1] Report of Auditor to City Council, *Thirty-ninth Annual Report of the Board of Education*, 1875, pp. 19-20. In this report to the Council it was stated that "one primary school is taught in a diminutive nine-by-ten shell, with an enrollment of 190 scholars under one teacher. It is divided into two sections, one section attending in the morning and the other in the afternoon."

[2] Act of March 11, 1867, 64 O. L., 45.

[3] Act of May 4, 1869, 66 O. L., 92.

[4] *Annual Report of the Board of Education*, 1873, p. 16.

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was disclaimed by the Board of Education, for its efforts to levy the one-fourth mill allowed for building purposes had been thwarted by the Tax Commission, while the policy of issuing bonds was disapproved as unjust and extravagant. Relief was obtained from the General Assembly in 1902 [1] in an extension of the maximum tax levy for building and sanction for the issue of $350,000 common school bonds, as well as $275,000 for high school buildings.

Salaries of teachers have gradually risen throughout the period, taken as a whole. Male teachers received $500 in 1850. Increased living expenses in 1864 and 1865 were the cause of a considerable increase, making the average salary of male teachers about $1200, and for female teachers about $465.[2] In 1875 the average salary of all teachers was $718; in 1880, only $652; and in 1891, $693. By 1900 it had reached $744, and in 1905 was $801.[3]

Actual cost of tuition is to be increased in the future by a system of pensions for teachers now being introduced. A pension law enacted in 1900 [4] was held unconstitutional,[5] but subsequent legislation makes it possible for the Board to retire a teacher, or for a teacher to retire of her own volition, after a service of thirty years, and receive for the remainder of her life an annual pension based on the length of her service, but never exceeding $300 per annum. The pension fund consists of (1) a contribution of $20 a year made by any person who is to participate in the bene-

[1] 95 O. L., 15, 245.

[2] *Twenty-ninth Annual Report of the Board of Education*, 1864-65, p. 7.

[3] Figues for 1905 are based on the whole number of teachers employed in schools of all kinds: for other years, on the average num-

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fits of the fund, (2) deductions from salaries on account of tardiness or absence, and (3) a percentage,—not less than one or more than two per cent,—of the gross amount received by the contingent fund from taxation.

Comparing total expenditures for education in Cleveland, including schools and libraries, with expenditures of other cities we find that for Group I the per capita expenditure in 1904 was $6.26 and for Cleveland $6.17. Group I is, however, unduly influenced by one city—New York—whose expenditure was $9.14 in 1904. For Group I, not including New York City the figure is $4.84. For the other Groups the figures stand as follows: Group II, $4.74; Group III, $4.39; and for Group IV, $4.33.

§ 71. *Libraries.* Expenditures for public libraries require little discussion in addition to the statistical presentation, together with what has already been said in regard to management and revenues. Per capita expenditure was $0.09 in 1866-70, and did not exceed $0.11 until 1896-1900, for which period it was $0.22. In the five years since 1900, owing largely to the erection of branch libraries and a temporary structure for the main library, the total per capita expenditure reached $0.45; for 1905 alone the amount is $0.63. The statistics show that with the growth and development of the library a constantly decreasing percentage of expenditure goes for the purchase of books; at present nearly fifty per cent more is paid for salaries than for books. This is probably the case to a greater or less degree with all libraries which serve the general public. Binding forms an important item of expense; in order to reduce it, a bindery department was installed in 1894. A system of library extension, begun in a small way in 1889, has resulted in a vast increase in the benefits which the public derives from the service, but it has also added to the financial problems of the administration. In 1905 five

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branch libraries, seven sub-branches, four high school libraries, nineteen deposit stations, and fourteen delivery stations were maintained.

§ 72. *Parks.* A part of Cleveland's park system is as old as the city itself. The original surveys in 1796 set aside a public square of ten acres, which remained until 1837 in the natural state, used as a playground and a place for public meetings. "Everything of an out-door nature took place there." In 1867 the opening of streets through its center in each direction reduced it to less than five acres. Two other small parks, each less than two acres, known as Clinton Park and Franklin Circle, date from the beginning of the city in 1836.

Public parks were not regarded as a regular object of expenditure until after 1870. Occasionally the Council would direct the planting of trees, grading or other improvements, but the cost was paid from the general fund. A Board of Park Commissioners was created in 1871 [1] and the next year an appropriation of $5,000 placed at its disposal, but no separate levy for park purposes occurred until 1873, when two-tenths of a mill were levied for the following year. The first important outlay for the acquisition of parks also occurred in 1873, in the expropriation of ten acres for Lake View Park, at a cost of $234,952. To make the purchase, seven per cent bonds payable in fifteen years were issued to the amount of $235,000. Agitation for such a park had been started in 1865 and authority granted by the Legislature in 1867.[2] Active attempts to defeat the bond issue having failed, the opponents of the project endeavored, also unsuccessfully, to have the park sold and the proceeds used to build a city hall. Private grounds con-

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taining a little less than ten acres, known as "Pelton Park," were purchased in 1879 and dedicated as South Side Park.[1] To make the purchase a modification of the Burns law had to be secured, $50,000, the price asked, not being available at once without borrowing. Payment was then made in six annual instalments and a tax of one-fourth mill levied in 1880.

On its five[2] parks the city spent for improvements in 1875 $60,657, no expenditure of equal amount being made again in a single year until 1893, when the "Park Act" was passed and the present park system inaugurated. An important event in the later developments occurred in 1882 in the gift to the city of Wade Park. It consisted of seventy acres laid out as a park ten years earlier and subsequently improved by large outlay. The gift was made on condition that within three years from January first, 1883, the city would expend not less than $75,000 in improvements;[3] by means of loans from the sinking fund and a bond issue the requirement was complied with. Then from 1886 to 1892 not more than $11,000 were spent in permanent improvements. In 1890 Cleveland had less than a hundred acres in parks. "No city in the land," declared the Commissioners, "is so poorly equipped and in none is the appropriation for park purposes so meagre."[4] This condition when brought home to the people touched their civic pride. So far the parks had grown more or less by chance. Influential citizens now met and organized a systematic movement for the enlarging and improving of

[1] *Council Proceedings*, February 16, 1880.

[2] Miles Park, containing about two and a half acres, was placed under control of the Park Commissioners in 1875.

[3] Annual Report of Park Commissioners, *City Documents*, 1882, p. 244.

[4] *Ibid.*, 1890, p. 464.

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Cleveland's parks; the Park Act of 1893[1] resulted. It provided for a Park Board of three members appointed by the Commissioners of the Sinking Fund, the Mayor and President of the Council being members *ex-officio*. It took the place of park commissioners provided by general laws, to be appointed by the Mayor, confirmed by the Council and subject to the latter in financial matters. This board, however, had already been abolished for Cleveland by the enactment of the Federal Plan, which vested its powers in the Director of Public Works.

The gift of Gordon Park, containing 112 acres of well-improved park land, marked the first year of the new régime. By gift and by purchase the total park area increased to over 1000 acres in 1895, and on January first, 1906, was 1524 acres. Of this, 675 acres represent donations, while 848 acres have been purchased. Since 1893 the city has spent nearly $4,500,000 for land and permanent improvements, and for maintenance $1,368,000, an average of $105,000 a year. The accompanying table shows the remarkable development of parks in the past fifteen years:

Area of Parks in 1890 and 1903.

	Number of acres.			*Number of acres.*	
	1890.	*1903.*		*1890.*	*1903.*
Chicago	2006	2267	Detroit	763	1247
Philadelphia	3025	4137	Minneapolis	1489	1747
St. Louis	2130	2133	Rochester	475	666
Boston	1130	2419	St. Paul	354	1001
Cincinnati	539	539	Providence	127	536
Cleveland	93	1524	Denver	441	562
Buffalo	638	1049	Pittsburg	610	910
New Orleans	459	522			

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wanton extravagance were not lacking.[1] The department of parks, it was felt, should be a part of the municipal government. The Board was by the act of 1893 limited in its existence to seven years and when it expired in 1900, by a similar act [2] was substituted a board of five members appointed by the judge of the circuit court. A year later, however, the parks passed into the control of the Director of Public Works; the new Code puts them in the hands of the Board of Public Service.

The present value of the parks is estimated to be over twenty millions. In the creation of the system real estate in private hands has been enhanced in value many fold, so that taxes collected from the increased valuation will in time probably more than pay the total cost to the city. This effect of parks on the value of private property has suggested a fundamental error in the policy of park development in the past. Instead of accepting tracts of park land from private individuals as gifts, on condition that the city spend large sums in improvement, the city should have purchased the land and assessed the cost of improvement on property owners benefited thereby to the extent of millions of dollars. For the 828 acres purchased between 1894 and 1905 $944,067 was paid, leaving $3,500,000 spent in improvements which have put hundreds of thousands of dollars into the pockets of real-estate owners in the vicinity of parks. Extension of the system now consists in connecting existing parks by boulevards encircling the city. Real estate in the vicinity of these parkways must receive a great increment in value and should bear a large share of the outlay involved in their construction.[3]

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Small parks, or breathing spaces, provided with children's playgrounds and other facilities for recreation have come to be a real necessity in many of the more congested districts. While the authorities are busy providing ways and means for these immediate wants the suggestion of an "outer" system of parks and boulevards has been made. The valleys of the Rocky river on the west and the Chagrin river on the east, now apparently remote from the city, are pointed out as additions which it is desirable that Cleveland should make to her park system in the near future.[1] Every outlay for enlargement and improvement calls for increased appropriations for maintenance. In 1903 the Superintendent of Parks declared that it was "almost impossible to keep the parks in proper condition" with the funds available.

§ 73. *Baths.* Under the supervision of park officials public bath houses have recently been opened. As early as 1894 two small summer beach bath houses were erected at Gordon and Edgewater Parks, but nothing further was attempted along this line until 1902, when a larger public bathing house was completed in Gordon Park. To the lake beach bathing facilities was added in 1904 a free public bath and gymnasium in the densely populated Orange Street district. A second bath house in another congested district was opened in the spring of 1906 at a total cost of about $20,000; this contains also a laundry for free public use. Other institutions of this kind are needed and will probably be furnished by the city in the near future. The expense of maintenance in 1905 was a little less than $11,000, the purely nominal fees charged to patrons covering about one-seventh of this amount.

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CHAPTER V

Municipal Industries

§ 75. *Water Works. Construction.* The only industrial undertaking of prime importance carried on by the city of Cleveland has been the furnishing of a water supply, but not until private enterprise had declined the task did the city undertake the construction of a water-works. As early as 1833 the Cleveland Water Company was incorporated by the General Assembly,[1] and given the right to supply the citizens of the city with water. For some reason, probably because the investment was not attractive, nothing was done. In 1850[2] the original act was amended, a company actually organized, and some stock subscribed; again nothing came of the project. The new charter in 1852 gave municipal corporations the power to construct water-works.[3] Plans and estimates were at once drawn up; and the necessary authority was secured from the Legislature to issue bonds and go outside its own territory to make connections with the lake. Popular approval of the scheme having been secured, work was begun in 1854 and the plant was ready for use in 1856. Seven per cent bonds were issued in 1854 for $400,000 and for $100,000 in 1856. Funds secured in this way, however, were exhausted before the distributing system was completed. Another loan of $50,000 was voted, but as the interest was restricted to

[1] Act of January 25, 1833, 30 O. L., 55.

[2] Act of March [illegible], 1850, 48 O. L., [illegible].

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six per cent it was found difficult to sell the bonds. Until the pipes were laid and the plant began to earn a revenue, the interest charge on the original loan formed a heavy burden.

§ 76. *Administration.* As originally constituted, the Water Works Board consisted of three members elected for three years; it had full powers in the management of the plant and in assessing and collecting the water "rent;" the City Auditor had no voice in its financial affairs.[1] The struggle against independent boards in the city government, noted in a preceding chapter, was directed especially against the Water Works Board about 1884. It was particularly desired that salaries in the water department should be subject to the approval of the Council and claims paid through the offices of the City Auditor and Treasurer.[2] In 1885 Mayor Farley made the complaint:

> Of the Water Works department but little is known, as it is as near a close corporation as could well be devised. Its salaries are high and not subject to approval by the Council. Its employees are numerous, and expenditures for various purposes very great. Yet that department handles its own funds without other scrutiny, and draws from the treasury in lump for pay-rolls and bills that do not pass through the same channels of investigation so wisely imposed on other departments. . . . . Supplies are purchased more or less indiscriminately by the various employees, and at the end of the month the board approves the claims; and this appears to be its only duty. . . . . Every subsidiary board and department should be under the eye and hand of the Council.[2]

At this time the Board still consisted of three members elected as at the beginning. It was without restriction in

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matters of expenditure, except that before entering a contract involving an amount greater than $500 bids must be advertised for at least two weeks. Weekly deposits were made with the City Treasurer; warrants of the Board had to be signed by the secretary and one trustee; monthly reports of receipts and disbursements were required to be made to the Council. That body had full power to investigate the affairs of the Board and could remove any officer for cause. In 1880, indeed, a Council committee had investigated the water department and was "surprised in learning the careless and negligent manner in which some of the books and accounts are kept, and have been for years." [1] Recommendations were made at that time looking to a more intimate connection between the financial administration of the Board and the city government; feeling was strong that every board should bear the same relation to the Council.

Under the Federal Plan the water-works became a division of the Department of Public Works and the Director was given the power to appoint a superintendent. Professor E. W. Bemis was in 1901 made Superintendent of the water-works. He is responsible in large degree for a marked increase in its efficiency and for the business-like administration now enjoyed. Particularly gratifying is the practically complete elimination of politics from the conduct of the department. Under the previous administrations political influences had seriously compromised its efficiency. "Some of the time books of labor bosses," Mayor Farley said in his message in 1900, had "more the appearance of pass-books of a political campaign manager than the business records of the office of a municipality." [2]

[1] *Council Proceedings*, January 7, 1880.

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§ 77. *Rates and Earnings.* For many years the earnings were small. In 1858 only about one-twelfth of the population was using the city water, objection being made that the rates were too high.[1] A reduction of one-third was made, but without a marked effect on the number of consumers and consequent earnings. From 1856 to 1876 the average revenue was only about $56,000; after 1875 earnings rapidly increased and rates were reduced from time to time. Charges have always been lower in Cleveland, according to the present Superintendent, Dr. E. W. Bemis, than in other American cities.[2] Yet in 1887 the Trustees of the Water Works asserted that water rates had always been maintained at about four times what was necessary to meet operating expenses.[3] Because of this "surplus" revenue above what was necessary to meet the "current expenses of furnishing water to the citizens" the Council considered the rates burdensome and appointed a committee to wait on the water-works board and see whether it would not be possible to effect a reduction.[4] Statistics do show a very low water rate in Cleveland, and an inquiry as to the cause of this low rate brings up some of the most difficult problems of municipal finance.

A municipal industry does not have a capital stock on which it must pay dividends; neither does it have to pay taxes. On the other hand it does resemble a private corporation in possessing an equipment which is to be maintained intact and extended to meet the demands of the community and

[1] The following are some of the rates in 1858: Dwelling-house, not exceeding five rooms, $5; each additional room, $0.50; bathing-tubs, each, $2; water-closets, $2 to $5.

[2] *Annual Reports*, 1901, p. 311.

[3] *Ibid.*, 1887, p. 560.

[4] *Proceedings of the Board of Councilmen*, January 31, 1887.

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it has a bonded debt outstanding, requiring regular interest payments. In the case of a private company fixed charges, dividends, maintenance and operation, and new outlays must all ultimately be paid out of revenue from services. When publicly owned and operated the industry may be managed in precisely the same way, the net income arising being regarded as a public revenue and applied to reduce taxes. At the other extreme is the method of making no charge for services, all resources being derived from some form of taxation. Either of these principles, or any compromise between them which public policy demands, may be adopted. In order to make an accurate and intelligent comparison of the efficiency of municipal and private management, based on rates charged, the first method must be used. In other words, the publicly owned industry should be placed exactly on an equality with the privately owned and operated plant. All expenses of administration and even taxes should be borne by the public enterprise; and the city, on the other hand, should pay for all service just what it would have to pay a private company. In comparing rates made by public and private companies for similar services these conditions are frequently overlooked.

It is assumed that water-works and other publicly owned municipal industries, in Ohio at any rate, are "productive undertakings." By reason of this character their funded debts are not included in the debt limit imposed. This implies not only a realizable security equal to the debt, —parks and other assets furnish this;—the implication is that property, the debt on which is excluded from the statutory maximum, will be able to pay its own obligations, and further, that it is not in any way to be a burden to the general tax levy. Rates must therefore be so fixed as to cover the cost of service, including the cost of operation, maintenance and capital outlay. The management of the

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Cleveland Water Works has varied in important respects from this standard.

A conflict of ideas as to what principle should guide in the fixing of rates has always existed and the question is still a live one. Vaguely conceived the principle upheld most of the time has been cost of service; but as to what cost of service includes there has been little agreement. One theory is that the rate should be made to cover the cost of operating the plant.[1] The other theory, and the one which on the whole has prevailed, is that construction should also be paid out of earnings;[2] the few who can afford to use the privilege "should aid in extending" it to all, said Mayor Otis in recommending an increase of one-third in the rates in 1874.[3]

Earnings of the plant, plus income from loans, have paid expenses of operation and outlays from the beginning; in other words, consumers have borne the cost both of the water supply and the extension of the plant. In certain cities a hopeless mingling of commercial enterprise and purely governmental functions is brought about in making pipe extension by special assessments on abutting property. It is held that property is benefited and should bear the cost just as in the case of sewers and pavements. This is the position taken by the Ohio League of Municipalities in 1902,[4] and has long been a legal method in Ohio cities.[5]

[1] *Proceedings of the Board of Councilmen*, January 31, 1887.

[2] An act of May 1, 1854 (52 O. L., 79), provided for applying surplus earnings to extension.

[3] *City Documents*, 1874, p. xxi.

[4] A resolution of September 11, 1902, demanded "That municipalities be empowered to levy assessments upon benefited improved and

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The Cleveland method has always been to pay the cost of pipe extension from revenues of the plant, and a deposit is required when the outlay does not net the department six per cent on the capital invested.[1] A practice which has existed from the beginning has made it difficult or impossible to determine the cost of furnishing water in the way a private company would be obliged to do it. The Water Works Act of 1853 [2] prohibited the trustees from charging the city for water used for extinguishing fires, cleaning market houses, and in public buildings. The water used by the city in 1866 at the regular rates would have yielded the department about $40,000. As the city paid the interest on the water-works debt, the exchange was regarded as approximately a fair one. About 1887 efforts were made to relieve the tax rate by having the interest, then about $100,000 annually, paid from earnings.[3] Since 1890 it has been so charged. Interest paid by the city prior to 1891 aggregated $3,940,000; and this amount Dr. Bemis finds almost exactly balanced by the free water and fire protection furnished by the water department. The amount of free service to the city varied from time to time; in 1887 it was estimated to be one-fourth of all the water pumped.[4] Proceeding from the number of hydrants in use at various periods, Dr. Bemis concludes that the total number of hy-

the cost of laying and extending mains on abutting property on the basis of frontage, tax valuation or benefits. Cincinnati has been specially authorized by several acts to use this method (84 O. L., 10; 90 O. L., 198; 94 O. L., 57). An act of March 24, 1888 (85 O. L., 112) gave cities of Cuyahoga county, outside of Cleveland, the right to levy special assessments for laying water-mains.

[1] The rate was formerly eight per cent. *Cf.* p. 111.

[2] Passed March 11, 1852, 51 O. L., 260.

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drants supplying water for public buildings, parks, streets, and fire protection, is equal to 87,000 hydrants for one year. He then calculates an average price per hydrant based upon the cost of performing the service to the city. Taking into consideration the larger outlay and more rapid depreciation incident to maintaining pressure for fire purposes, $45 is arrived at as an approximately accurate average price for the whole period, the present average price in the United States being about $54. Eighty-seven thousand hydrants at $45 each give $3,915,000, only slightly less than the interest on water-works bonds paid by the city. Two other items enter into the costs borne by the city. Prior to 1881 the city paid $925,000 water-works bonds issued for the original construction of the plant. They were paid, however, not from taxation, but from the Sinking Fund of 1862.[1] Interest on the $925,000 to 1905 and any taxes which a private company would have paid must be regarded as expenses of the plant borne by the city. The "remarkably low charge" to consumers would have been increased somewhat had the public plant been on an equal footing with a privately owned one.

§ 78. *Sinking Fund.* Another cause exists for low rates; debt has been increasing rapidly with no provision for sinking funds. The act of 1853 provided for a sinking fund to be maintained by a special tax; running expenses only were to be paid from water rent; but no use was made of this provision. For a time the Sinking Fund of 1862 was known as the Water Works Sinking Fund, because it was pledged to the payment of $925,000 water bonds. In 1885 a council ordinance[2] provided that any

[1] *Infra*, § 95.

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surplus earnings remaining after paying for operation, construction and repair should be paid to the Sinking Fund Commissioners for expunging the water-works debt, but rates were too low and expenses and outlay too large to allow a sinking fund to accumulate.[1] The water-works debt in 1885 was $1,775,000 and remained at that figure for ten years. It then began to grow; in 1901 it was $2,687,000 and on January first, 1906, $4,266,000, without a dollar pledged to its redemption, bonds being renewed as fast as they mature. The present administration is undoubtedly open to criticism at this point. Few, if any, students of municipal finance would concede that the perpetuation of a debt of any kind is good public policy. Some provision should be made for paying the debt as it matures and this is the general practice in English and American cities. The method in use in Cincinnati may be cited as an example. The Water Works Act of 1896[2] requires the Board of Trustees to set aside from the net revenues not less than $75,000 a year until all bonds are paid, or an adequate fund provided to pay them.

By way of justifying the Cleveland practice it is claimed that outstanding bonds are equal to but forty per cent of the structural value of the plant and that the security is kept sound by putting from earnings into new construction a larger amount annually than from loans.[3] Apparently there

[1] $75,000 was paid over February 7, 1887. *Cf.* p. 223.

[2] Passed April 24, 1896, 92 O. L., 606-613.

[3] The real reason for this practice has been, it seems, that the water-works debt, as a part of the general debt, restricted the borrowing powers of the city. To have put earnings into a sinking fund, instead of using them for construction, thus allowing the nominal debt to

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is here some confounding of depreciation and sinking fund. A sinking fund, as the term is ordinarily understood and used in other departments of municipal government, has to do with debt payment. In order to distribute the burden of large outlays which normally have to be replaced only at long intervals bonds are issued. After a costly plant is constructed provision must be made for both depreciation and payment of debt. If debt only is paid, at the end of the life of the plant new debt must be incurred to reconstruct it. If, on the other hand, only depreciation is provided for, by maintaining a special fund into which is paid a sum equal to the annual depreciation, at the end of the normal life of the plant it is intact, but the debt remains, and interest charges are as great as ever. Unless, therefore, a permanent debt is desired, both a sinking fund and a depreciation fund must be maintained. It is not claimed that a debt should be paid and the value of a productive plant maintained through a depreciation fund, both within the life of a plant which extends over not more than one generation. To do so would impose a double burden on the present; to take the opposite course is to saddle a double burden on future generations.

The Cleveland Water Works has neither depreciation fund nor sinking fund. Professor Bemis has made a study of the depreciation of the plant and finds that it is about two per cent, or over $200,000 annually, at the present time. His policy is to charge as much of this depreciation as possible to repairs, following the policy of certain large private corporations, especially of American railroads, in contrast to the English. This is called "conservative"

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a large expenditure from construction account to repairs and in so doing making comparisons with former years impossible. The enterprise has no capitalization that is in danger of being inflated. If, also, two per cent adequately represents depreciation, it is equally "conservative" to write off that part of the value of the plant every year, actually deduct it from earnings and set it aside for renewals. Not only does this method represent sound accounting; it makes it easier for the public to see what is being done than when part of the annual depreciation is put into repairs and the balance into a fund for new construction, made up partly of net income and partly of these deductions for depreciation.

§ 79. *Meters.* The present policy of introducing meters lends special interest to the administration of the Cleveland Water Works. Meters were first installed about 1875. As early as 1859 the Superintendent had suggested that the city purchase some meters "particularly to convince the consumers of large quantities of water" that they were paying an "inconsiderable price" for the water they used.[1] The installation of meters to reduce waste was urged for many years. In 1884 it was asserted that by a proper elimination of waste pumpage could be reduced one-half.[2] From 1880 to 1890 pumpage increased 173 per cent, and in the next decade 141 per cent, population in the meantime increasing 63 per cent in the first period and 46 in the second. A general introduction of meters set at the expense of the city began in 1901. At the beginning of 1901 2612 meters were in use; the number was increased to 2981 during the year; in 1902 it was further increased to 11,099 and to 24,503 in 1903. At the close of 1905, exclusive of free

[1] *City Documents*, 1859, p. 37; 1860, p. 45.

[2] *Annual Reports*, 1884, p. 364.

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metered connections, 43,256 out of the 64,137 connections in use were metered. A little less than one-half of the 1009 free connections were also provided with meters. In the four years, 1902-1905, outlay for this purpose was $728,613, the present value of all meters in use being estimated at $735,558.

It is calculated that for every dollar spent on meters two dollars have been saved in machinery, buildings and other construction which the rapid increase in pumpage would have necessitated. Consumers have also benefited; in April, 1904, 20,433 metered consumers were paying 73.3 per cent of what they had paid under assessment. "Over nine out of ten," the Superintendent says, "are saving money from meters." [1] A beneficial influence on the health of the city is also claimed.

§ 80. *Conclusion.* On January first, 1906, the total cost of construction had reached $13,836,416. Of this the chief item was $7,489,720 for pipe extension. In 1873 this form of outlay amounted to more than $290,000, a figure which has been exceeded in but four years, namely, 1894-1896 and in 1900. For meters $1,025,447 have been paid since 1875. Two of the three pumping stations have cost over a million apiece. Lake tunnels are another form of construction that has been especially burdensome; almost two million dollars have been spent in this way.

The most obvious conclusion is that a sinking fund should be established into which a minimum payment should be annually required until the fund is capable of paying all bonds when they mature. Perhaps the fairest arrangement between the water consumers and taxpayers who do not use city water would be for the city to pay to the water

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nished and let this go into a sinking fund.[1] Should it prove impossible to secure such a payment, rates ought to be raised sufficiently to allow the starting of a sinking fund.[2] However, by issuing bonds for all, or nearly all, new construction henceforth, it might be possible to maintain a sinking fund from the net earnings now used for outlays, without advancing present rates. The Superintendent calculated for 1905 a net earnings of $200,000, after making due allowance for repairs and depreciation, and this was used wholly in new construction. Even a part of this amount annually invested in a sinking fund would provide for the redemption of the bonds now outstanding. It is hardly necessary to add that it is the method of dealing with sinking fund and depreciation charges, rather than the financial soundness of the Water Works, that is here criticized.

[1] The metering of free water may assist in bringing about a more desirable relation. A resolution of the Board of Public Service, passed July 15, 1904, authorized the metering of schools and other public buildings and charitable institutions. The purpose is to charge regular meter rates on all water used above a certain maximum allowance. At the present moment the right of the Board of Public Service to make such a ruling seems likely to be reviewed in the courts by a refusal of the school officials to pay the bills presented.

[2] The above was written with reference to conditions as they existed up to January 1st, 1906. The General Assembly in 1906 made a sinking fund a necessary condition for excluding water-works debt incurred in the future from the net indebtedness legally allowed to the city. In the language of the statute, in the net indebtedness of the city shall not be included "bonds issued for the purpose of constructing, improving and extending water-works when the income from such water-works is sufficient to cover the cost of all operating expenses, interest charges and to pass a sufficient amount to a sinking fund to retire such bonds when they become due." While these pages are going through the press the Council has authorized a loan of $300,000 for construction purposes, creating at the same time a sinking fund for its re-

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It seems more than probable that a filtration plant will before a great while have to be built at enormous expense, greatly augmenting the present large debt. Even if this should be delayed longer than now seems likely, the bonded debt under the present policy will continue to increase. Aside from provision for debt payment it might be urged that a depreciation fund ought to be maintained. Should the debt be provided for, however, no great fault could be found with the method of issuing bonds for renewals when they become necessary. To make renewals by bond issues with no provision for paying the debt ought not to be countenanced by local or state authority.

What benefit has the city of Cleveland derived from the ownership of her water system? The chief advantage, according to Dr. Bemis, has been the elimination of a powerful factor in corrupting and weakening the city government. A second advantage he finds in the "remarkably low charge" made for water to all classes of consumers.[1]

§ 81. *Cemeteries.* Among the productive enterprises managed by the municipality cemeteries rank second in respect to the amount of their financial transactions throughout the history of the city. Seven cemeteries are now under the public control. Only four of these, however, are used to any considerable extent. Erie Street cemetery, the oldest, is practically abandoned; a large share of the land is being deeded back to the city in exchange for lots in the new Highland Park cemetery. The latter consists of a tract of 441 acres adjoining the farm colony at Warrensville. Cemeteries within the city have become cramped for room and the new tract is designed to serve the purpose of a public burying-ground for many years. A portion of

[1] *Annual Reports*, 1901, p. 315. Since he assumed the duties of Superintendent of Water Works in 1901, Dr. Bemis has issued a series of most able and interesting reports.

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it was opened in 1904, the remainder being cultivated under the supervision of cemetery officials.

Cemeteries were under the control of an elective board of trustees until 1891. Receipts, consisting of payments for services and vault fees, as well as the income from the sale of lots, were kept in the custody of the board. The law required funds arising from the sale of lots to be used solely for the improvement and embellishment of the grounds. Current expenses, however, for many years exceeded the revenue which could be legally applied to them; as the Council refused to make appropriations, they were paid from funds designed for outlays. Money arising from the sale of lots shows a relative decline from 1875 to 1880 on account of the opening of elegant private cemeteries.[1] When occasionally the Council did consent to levy a tax the cemetery trustees had no control over the receipts; consequently the existence of two independent funds produced a confusion which makes a correct tabulation of the data very difficult, although tables as complete and as accurate as could be made from published reports of the Cemetery Board are given in the Appendix.

The independent character of the Cemetery Board was attacked in 1885, as a part of a general movement against independent boards. The board of three members had almost complete financial independence; its funds were not even deposited in the city treasury. One member was selected to act as treasurer and expenditures were made wholly at the board's discretion. A detailed report of receipts and expenditures was annually made to the Council; and a report showing the nature of the investment of surplus funds

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real check upon the board. An attempt was made in 1886 to secure legislation requiring funds to be deposited and disbursed in the manner provided for other departments.[1] Finally the end sought was attained through the Federal Plan in 1891. Cemeteries were then made a part of the Department of Charities and Correction. Under the new Municipal Code this relation is continued, both being subordinated to the Board of Public Service.

§ 82. *Markets.* Municipal markets are as old as the city itself. In 1839 the office of market clerk was created.[2] It was his duty to attend to the market houses, weighing, and the conditions under which meat was sold, *etc.* In the earlier years grounds and building were rented by the city. In 1840 one market house was built and another in 1867. In 1880 the city had four markets occupying in all something less than two acres. At that time this was the only branch of the city government remaining under the control of a council committee;[3] other departments had been transferred, most of them long before, to boards provided by law. A question as to the propriety of a municipality's engaging in any business, such as markets, which entered into competition with private business interests, was raised in 1883. The Mayor took it up and decided that "the convenience to the greater number of citizens is the only gauge by which the project can be determined."[4]

At present only the poorer classes patronize the municipal market houses; the relative decrease is due chiefly to telephone service and free delivery. Receipts arise from rent paid by tenants for use of stalls, benches, curbs, *etc.;*

[1] *Council Proceedings*, May 24, 1886.

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fees received by the keeper of city scales are also included. Stalls were formerly assigned by public bidding, but under the new Municipal Code the Board of Public Service makes the assignments and fixes the rents to be paid. The chief items of expenditure are salaries of officers and employees, including the city sealer, and fuel and light for market buildings. Average receipts and disbursements have remained practically unchanged for many years.

The erection of a new and modern market house is now causing larger outlays than ever before. Under an act of 1898 [1] the city was authorized to issue $325,000 bonds for purchasing land and erecting a market house and auditorium. A Market House Commission of three members, provided for in the act, was appointed by the Mayor and confirmed by the Council August 12, 1901.[2] Originally to serve for but five years, the new Code provided that the Commission should continue to act until its object was accomplished.[3] In 1903, however, it was ousted because created by an unconstitutional law; its duties devolved on the Board of Public Service. From 1901 to 1903 $160,000 of bonds were issued and the proceeds expended for land. Construction of the proposed building has been delayed in various ways, and the auditorium feature will probably be omitted, as urged by the Municipal Committee of the Chamber of Commerce.[4]

§ 83. *Docks and Wharves.* In view of her possibilities as an important lake port it is rather remarkable that Cleveland has paid so little attention to the matter of docks and wharves. Elsewhere [5] a suggested project for the construc-

[1] Passed April 26, 1898, 93 O. L., 668.

[2] *Council Proceedings*, August 12, 1901. [3] S. 216.

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tion of docks on a large scale has been referred to. Here is a field for municipal ownership and operation of far more promise just now to the prosperity of Cleveland, and also better suited for municipal activity, than street lighting and street railways.

An act of 1844 [1] gave Cleveland the power to construct and operate wharves and docks. A few public landings were constructed in the next decade and these she attempted in 1856 to make a source of greater revenue to her,[2] though apparently with little success. In 1879 the city owned and controlled a harbor frontage of 4,960 feet; only a little over half of it, however, was in a serviceable condition. At present the total dock frontage in the city is approximately fourteen miles, of which the city owns about 1.2 per cent, including street ends and several parcels acquired in widening the river.

Income from the city's docks and wharves is treated here as the receipt of a municipal industry, although they are leased every two years to the highest bidder, so that there are no expenses of operation. Expenditures in recent years have been slight and are generally merged with the river and harbor fund.

§ 84. *Institutional Industries.* Institutional industries have been discussed sufficiently in the section devoted to the House of Correction. In addition to the manufacturing department of the Workhouse, a similar enterprise is carried on in a small way by the Infirmary and receipts from the sale of products from the Infirmary farm are tabulated whenever the reports make it possible. Expenditures of a commercial or industrial character are not clearly separ-

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§ 85. *Miscellaneous Industries and Enterprises.* Two other undertakings commercial in their nature find a place here. Income and expenditure on account of the city store room and the sale of school books are not legitimately a part of the expenses of general government and schools, though in the reports of those departments they are usually so treated. In 1892 a fund was created for the purchase of stationery and office supplies at wholesale prices. These supplies are kept in the city store room and issued to the various departments at cost. The advantage of such a method of purchasing city supplies was pointed out from time to time,[1] but until the unified form of government was realized nothing of the kind could be put into practice, "because," said Mayor Gardner in 1886, "as at present conducted the departments are essentially 'close communion' and do not associate even for general business purposes."[2]

Since 1893 the Board of Education has bought school books and resold them to the pupils. An act of 1891 gave the authority by providing that publishers should furnish their books to boards of education at seventy-five per cent of the list price, to be resold to school children at an advance of not more than ten per cent.[3]

Other minor municipal services, formerly in private hands but now managed by the municipality, have already been referred to.[4] The collection of ashes by the city began in 1906. Other services have been or are now under consideration. The suggestion is made that the city should take over the sprinkling of streets as it is permitted to do

[1] *City Documents*, 1874, pp. xxviii-xxix.

[2] *Ibid.*, 1886, p. xxi.

[3] Act of May 4, 1891, 88 O. L., 568.

[4] *Supra*, street lighting, p. 158; night soil, p. 149; garbage disposal, p. 150.

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by the Code.[1] A demand for municipal ownership of the street railways is seriously made by the partisans of the "three cent fare" movement, who have for years been waging a legal war with the Cleveland Electric Railway Company. The state laws do not at present permit cities to construct and own their street railways. Mayor Johnson, as is well known, is an advocate of municipal ownership. There is, however, no general sentiment in its favor.

[1] *Annual Report of the Division of Street Cleaning*, 1905, p. 3.

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CHAPTER VI

Debt and Sinking Funds

§ 86. *Origin of Funded Debt.* "It has become somewhat customary," the Mayor of Cleveland was constrained to say in 1860, "for municipal corporations to negotiate loans, and accumulate a public debt for future generations to pay." [1] Admitting that such a method might be advisable in the case of "great improvements" or revenue-producing enterprises, he was forced to conclude that "ordinarily such a policy is unwise and should be deprecated." [2] For Cleveland, as for many other municipalities, it would have been well had these words been heeded in the next decade and a half. From 1866 to 1875, while the population of fifteen of the principal cities of the United States increased a little less than seventy-one per cent, indebtedness increased 271 per cent.[3] In the same period Cleveland's population increased 72 per cent and her debt 355 per cent.

[1] *City Documents*, 1859-60, p. 4.

[2] The Mayor's opinion of the wisdom of borrowing may have been influenced by the difficulty of finding persons willing to become creditors of the city. In the City Clerk's report for 1859 the following entry appears: "Paid W. H. Stanley, efforts to borrow money for the city, $28.00." (*Report of City Clerk*, 1858-59, p. 15.) Since 1860 municipal securities have become a favorite form of investment. The very eagerness of investors to obtain city bonds has doubtless been a potent cause of the rapid growth of municipal indebtedness in the United States.

[3] H. C. Adams, *Public Debts* (p. 346); quoted from "Report of the Commission to Devise a Plan for the Government of the Cities of the State of Pennsylvania."

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With the exception of half a million dollars incurred for the erection of the Water Works, the city debt before the beginning of the Civil War was small and unimportant. A debt of $30,000 or $40,000 for grading, inherited by the first Council under the city charter, was quickly paid.[1] With a debt which probably did not exceed $15,000 in 1843 the Council was warned that it would find the "finances embarrassed."[2] No small share of the embarrassment alluded to was the direct result of a practice, followed by the village and adopted by the city, of issuing orders on the treasury regardless of whether there were funds on hand or not. Of a debt of $22,000 in 1847, $8,000 was in the form of these treasury orders, worth about $0.625 on the dollar.[3] For labor and materials furnished the city prices were, accordingly, twenty-five to thirty-three per cent higher than the cash price; and to fund at least a part of these orders and bring the rest to par constituted the financial problem. The charter of 1852[4] permitted the city to borrow in anticipation of the revenues of the current fiscal year and this power was used the next year in a tax loan of $10,000, supposed to be sufficient to cancel the floating debt.[4] "Funded debt," however, does not appear in any statement of liabilities until 1856. After 1861 floating obligations constantly accumulated and were then funded. Such current charges as interest and lighting expenses were allowed to go unpaid for a longer or shorter period when they were converted into interest-bearing debt,[5] with the result that more than thirty per cent of the indebtedness in 1872 was of this character, and for some time more than one-third of the interest charges was on bonds issued for current expenses.[6] Bonds

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for viaduct, water-works and special improvements swelled the total at an alarming rate. Loans amounting to nearly nine and a half million dollars were raised from 1871 to 1877.[1]

§ 87. *Special Debt.* For a time the real proportions of the debt were concealed by dividing it into "general" and "special" indebtedness. The former was incurred for general purposes and was to be paid from the ordinary tax levy. Special debt consisted of bonds issued for local improvements, such as sewers, paving and street-opening; payment was to be made from special assessments on property benefited. In the five years from 1870 to 1875 the latter increased more than fourfold, amounting to nearly three million dollars; while the general debt increased but a little over fifty per cent. The policy of so classifying the debt seems to have originated in 1867, when the Mayor refused to admit that bonds of the four sewer districts formed a part of the general debt of the city.[2] On March first, 1870, bonds of this character had been issued aggregating $334,876. In the debt statement of the following years no reference is made to a special debt, but at the beginning of 1874 it amounted to $897,000, and during that year no less than $1,534,700 was added to it. An idea prevailed that a special debt would take care of itself and need in no way be considered in estimating the city's financial burdens. Though it was true enough that special indebtedness was only a "contingent liability," interest on it had to be paid, and it was interest, as we are told, "that distresses."[3]

That opposition to these bond issues for special improvements should arise at this juncture was inevitable. Mayor

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Otis indignantly asserted that a large majority of the street-opening bonds were "issued in obvious conflict with the spirit of the law."[1] The law authorized street improvements, of course, but only when they were *necessary;* and the necessity contemplated was a public, not a private one, the reformer insinuatingly remarked. Land speculators had evidently made good use of the Council to speed their private ventures. By the defenders of the special improvement bonds abuses were ignored and the prevailing practice favored on the ground that it was not expedient to wait until the money for much-needed improvements could be accumulated, or to deny the benefit of the city's credit to the small taxpayer. The cost of improvements could also be greatly reduced, it was pointed out, by paying contractors in cash.

In the latter contention another evil practice that had fastened itself upon the financial system is suggested. In 1870 an act had been passed providing that all contractors should be paid in cash "or assessments;"[2] but for six or seven years, in open violation of this law, contractors received instead of cash special improvement bonds bearing seven per cent interest. A brokerage in these securities finally awakened criticism and led to a stricter council control over their sale.[3] In close connection with this irregularity still another cropped out during the same decade. Among the items of floating debt the statistics contain one known as "certified estimates." As the work on an improvement progressed a certificate of the amount completed was given the contractor by the City Civil Engineer; the certificates the contractor presented to the Auditor and re-

[1] *City Documents*, 1874, p. xx.

[2] Act of April 18, 1870, 67 O. L., 81, § 562.

[3] *City Documents*, 1877, pp. 34-35.

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ceived a due bill known as a certified estimate. These orders bore interest at six per cent from the time they were presented to the Treasurer until paid. Usually the contractor was bound by agreement to wait for payment until the taxes or assessments were collected; but to realize at once on the certified estimates the practice grew up of presenting them to the Treasurer who discounted them at three to five per cent. Obligations of this sort did not appear in the annual reports, were not included in the special debt, and no accurate account of them seems to have been kept. After the matter had been investigated, certified estimates appear in the statement of liabilities for 1879 and a few years following. The amount outstanding in 1874 and 1875 must have been very large. Orders presented in 1877 and 1878 had been drawing interest for five or six years, their existence being unknown to the Treasurer.[1] The right to issue such certificates to contractors was granted by the Code;[2] the difficulty was that they were not issued nor paid in the manner provided by law.

A new enactment covering the subject of special debt was provided in 1882.[3] Bonds, notes, or certificates of indebtedness could be issued in anticipation of special assessments levied, but were made payable in annual instalments. Among its borrowing powers the city still has the right to issue bonds for this purpose, subject to the same limitations and restrictions that apply to other bonds. Notes payable within two years or less may now take the place of bonds in anticipation of special assessments.[4]

§ 88. *Debt Limit.* The "borrowing mania" which af-

[1] Report of Special Investigating Committee, *Council Proceedings*, February 18, 1878.

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flicted Cleveland the larger part of the decade beginning in 1870 was not confined to any one city or state. From 1870 to 1874 the city and town indebtedness of Massachusetts increased from $34,800,000 to $80,427,000;[1] the growth of debt in other states was even greater, as indicated above.[2] To check this alarming increase of local indebtedness limitations were placed by statute on the borrowing power in many states. Pennsylvania in 1873[3] limited municipal debts to seven per cent of the tax valuation. Maine established a five per cent limit in 1877.[4] A little later Indiana went further and prohibited municipal debts in excess of two per cent of valuation.[5]

Governor Noyes suggested to the General Assembly of Ohio which met in 1874 that the power of local governing bodies in the state to create debt should be restricted by legislative enactment.[6] His advice was heeded and a law passed limiting the debt that cities could incur to five per cent of the valuation placed on property for taxing purposes. Although this maximum has been raised from time to time, at least one administration before the present has felt greatly hampered by the lack of power to incur further debt. The total debt decreased more than $500,000 from 1878 to 1891; and although the policy of the Council for some years was to permit no increase,[7] the net indebtedness in 1891 was very close to five per cent of the valuation. In the maximum allowed by the state law the water-works debt

[1] *Commercial and Financial Chronicle*, vol. xx, p. 345. April 10, 1875.

[2] *Supra*, p. 203.

[3] Constitution of 1873, Art. x, § 8.

[4] Constitutional amendment adopted September 10, 1877, Art. xxii.

[5] March 14, 1881.

[6] Annual Message of the Governor of Ohio to the Sixty-first General

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was not included. Vetoing an ordinance to issue street improvement bonds, Mayor Rose expressed the fear that New England officials might at any time decide to include waterworks debt, an action which would render Cleveland bonds unmarketable for the use of trust funds in New England states, injuring the city's credit and causing the rate of interest to advance one or two per cent on the issue of refunding bonds.

When the McKisson administration in 1896 launched a movement for large outlays to provide a better water supply, garbage disposal, sewage system and river improvement, to secure the necessary bond issues the only method available seemed to be to raise the debt limit. To the Citizens' Committee the Mayor reported that a careful comparative study had revealed that no American city in Cleveland's class had as small a debt, with the exception of San Francisco and Detroit; that Detroit's small debt, however, was not due to better financial management, but to the fact that fewer and less costly public improvements had been made.[1] By skillful computation Mayor McKisson convinced himself, and apparently the Citizens' Committee, that Cleveland's debt in proportion to population was anywhere from a sixth of, to something less than merely equal to, the debt of a dozen or fifteen other large cities. Real and personal property, he maintained, was valued at about thirty-five per cent of its actual worth and in consequence the tax rate was only one per cent instead of 2.87. The thesis which he undertook to prove was that Cleveland could largely increase her tax rate and indebtedness and still be able to attract capital from other cities of her class. To secure a large maximum debt limit he argued that Cleveland [illegible]

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fettered by the low limit; that no other city in the state had so small a debt; and that the finances of none had been so conservatively administered. Further, he urged, growing and prosperous municipalities are able to find means for disregarding debt limits, Chicago, St. Louis and other cities being cited as examples. In spite of a protest from the Council that such legislation was "unnecessary and against the best interests of taxpayers," [1] the Legislature was induced to raise the debt limit from five per cent to seven. Greatly enlarged bond issues resulted in the succeeding years, the total debt increasing from $10,675,000 in 1896 to $14,503,000 in 1900.

§ 89. *School Debt.* A life history of debt incurred for each municipal function can be followed in the statistical Appendix; loans for school purposes, however, deserve special mention. Authority to issue bonds for the purchase of land and the construction of buildings was bestowed upon the city in 1853 [2] and transferred to the Board of Education when the school and municipal finances were completely divorced in 1873. Prior to 1873, therefore, all school bonds were issued in the name of the city. The Board of Education, however, used this power very sparingly until 1882; for to borrow money and create interest-bearing debt to provide schoolrooms was considered by the Board during these years to be as poor a policy as to incur debt to pay teachers' salaries.[3] Restricted tax levy and rapid growth of population called for rather frequent issues beginning in 1883, because a "fallacious theory," that school buildings are a permanent improvement for a rapidly growing population, preferred loans to increased taxes.

[1] *Council Proceedings*, March 30, 1896.

[2] Act of March 11, 1853, 51 O. L., 362.

[3] *Annual Report of the Board of Education*, 1875, p. 24.

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The policy adopted by the Board in 1873 was re-echoed by the School Director in 1896; "There can be no question," he declared, "that the issuing of bonds for building purposes is an unwise and extravagant method of meeting this problem." [1] In recent years, however, a relatively large amount of bonds have been issued for building purposes, as a comparison of the school levy with the total expenditure for schools will show. For erecting and equipping high schools $300,000 were issued in 1898, and since 1900 bonds for building purposes have averaged nearly $300,000 a year. Less important additions to the school debt are due to the annexation of Glenville. At the same time the highest rate allowed by the statutes is being levied for building purposes.

Over against a total debt of $2,308,000 in 1905 an inventory of school property shows total assets of $8,781,680, of which $1,500,000 represents land values. The sinking fund, to be discussed presently, has assets amounting to $243,185.

§ 90. *Causes of the Growth of Indebtedness.* The causes contributing to the growth of the city debt are fundamentally the same which have led to an increase of expenditures from decade to decade. A tendency is everywhere observed toward a larger use of credit as the density of population increases.[2] Speaking of the growing debt in 1877, Mayor Rose remarked that "Among the most prolific causes of this plague is the influence of political partisanship in the administration of city governments." [3] The large increase of debt at this time seems to have grown out of the board system of government, by which large de-

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ficits were annually created and funded. A mistaken notion of the character of the "special" debt was also perhaps in part responsible. Special indebtedness, though only remotely a general liability, had an effect on business no less marked because it was to be redeemed by special assessments instead of general taxation.

§ 91. *The Longworth Bond Act.* The second upward trend in the growth of Cleveland's net indebtedness begins in 1902. This fact suggests that the general bond act of that year, known as the Longworth Bond Act, may have had some influence by making the creation of debt easier than it was before. The act [1] confers on the municipal corporations of the state general powers to issue bonds: no less than twenty-seven objects or functions are enumerated for which loans may be raised. Interest is limited to six per cent, though no restriction is placed on the length of time the bonds may run. The ordinance or resolution authorizing an issue requires a two-thirds vote of the Council; and if the amount issued in any one year is to exceed one per cent of the total assessed valuation of property, it must also be submitted to the people and receive a majority of the votes cast. Likewise, if the total net indebtedness is to exceed four per cent of the tax duplicate the surplus issues must be authorized by a popular vote, in which case the total may reach, but not exceed, eight per cent of the valuation. As a part of this maximum, bonds to be paid by special assessment are not included. Doubt having arisen as to whether the limit placed by the Longworth Act applied to debt existing prior to its passage, the question was carried to the Supreme Court where it was

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not be considered.[1] The debt limit is, therefore, considerably raised for a number of years; and the actual maximum is also still further increased by an act of the last General Assembly excluding water-works bonds and deducting sinking[2] funds from the outstanding debt in determining net indebtedness. Full advantage has been taken of both these modifications of the Longworth Act and Cleveland has now practically reached the limit beyond which popular consent is necessary. The people, apparently, are not in a mood to give their consent to a further bonding of the city. In a special election held October 9, 1906, an issue of $300,000 of bonds for beginning work on the new City Hall, $1,300,000 for the construction of a high level bridge to replace the Superior street viaduct, and $700,000 to repair the Central viaduct were all defeated.

The Longworth Act, re-enacted as a part of the new Code, and subsequently amended, covers the main points in the borrowing powers of the cities of the state. In addition to its provisions the Council has power to borrow until the following tax levy is collected any sum that the local board of health may consider necessary.[3] "Deficiency bonds" to meet a deficit in the ordinary revenues may be issued to the extent of one per cent of the taxable value of property. Popular consent, however, is necessary for such an issue.[4]

§ 92. *Interest.* Interest on the public debt has regularly constituted one of the largest items of municipal expenditure. In 1873 more than one-third of the entire tax levy was required for this purpose. A per capita expenditure of $2.73 in 1876-1880 is the largest in the city's history,

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though for the decade preceding 1875 the amount was only slightly smaller.[1] After 1880 the amount gradually declined to an average of $1.66 in 1896-1900. The last five years show an increase, net interest payments per capita being $1.95 in 1904,[2] which is larger than the amount paid by Chicago, Philadelphia, St. Louis, Detroit or Milwaukee. On the other hand interest payments in New York and Boston are much larger in proportion to population than in Cleveland. General conditions in Cleveland, however, are to be compared with the former rather than with the latter group. No important city in Ohio bears as large a per capita burden of interest as Cleveland, with the exception of Cincinnati, where a large part of the payment is due to the Cincinnati and Southern Railway. From the point of view of interest charges it is apparent that a further increase of debt, except for productive undertakings, will tend to put Cleveland at a disadvantage with most of the cities in her class.

The rate of interest has fallen steadily. Practically all bonds issued before 1875 bore seven per cent; in that year an effort was made to reduce interest to six per cent and $350,000 were offered at that rate. These bonds had to be sold slightly below par, so that the actual rate was six and one-fourth per cent at par.[3] This,

[1] The figures for 1874 and certain other years are less than the interest actually paid, for the reason that in the Auditor's report principal and interest are not separated in payments. "Special bonds and interest" is a common form of entry. On this account also the amount of debt paid in 1874 and the years immediately preceding and following is only approximately correct.

[2] *Bulletin* 50, p. 100. Net interest includes only payments to the

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however, was a distinct advantage, especially in view of the large viaduct issues which were made the following year and sold at a substantial premium. No seven per cent bonds were issued for any purpose after 1878, and after 1880 all six per cents were taken by the Sinking Fund Commissioners. A block of viaduct bonds had been disposed of at five per cent in 1877; from 1887 until 1893 five per cent was the prevailing rate, although as early as 1881 four per cents were sold at par. With very few exceptions all bonds issued since 1893 have borne four per cent.[1] A million dollars of water-works bonds issued in 1902 were sold at a premium sufficient to reduce the net rate to less than 3.3 per cent; since 1902 the net rate has increased almost to the nominal rate. Under the new Code the city is obliged to offer its bonds at par and accrued interest to the Sinking Fund Commission and only after the Commission has refused them can they be offered for public sale. For many years it has been customary to sell five per cent promissory notes in anticipation of the collection of special assessments for street improvements. In recent years practically all these notes have been purchased by the Sinking Fund Trustees. In 1905 five per cent bonds were sold instead of notes, all of them, —$719,000,—being taken for the sinking funds, at par.

§ 93. *Method of Selling Bonds.* After the Sinking Fund Commission has been given an opportunity to take bonds at par they must be sold to the highest bidder, the sale being advertised thirty days in advance. Only after being offered at public sale may they be sold privately. Prior to 1877 all bonds were sold in the eastern markets by the personal efforts of the Treasurer. The scheme of advertising and receiving bids for the purchase of securities was tried as an

[1] Five or six per cent is the usual rate on bonds which have been assumed by the annexation of outlying villages.

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experiment in 1877, and the first five per cent bonds ever sold brought a premium of 2.07 per cent. The following year, presumably influenced to some extent by the success of the plan in Cleveland, the General Assembly so revised the statutes as to require all cities in the state to sell their bonds in this way and prohibited private sale.[1] In the municipal bond market Cleveland's method of disposing of her securities has long been regarded as a model which other cities would do well to follow.[2]

§ 94. *Debt Payment.* However necessary and useful a municipal debt may be, a proper provision for paying it cannot safely be neglected. A growing and prosperous city finds no difficulty in making use of its credit to any extent the law of the state or the sentiment of the community will permit, but payment of obligations when they mature is a more difficult problem, and simple though the principles of debt liquidation are, a weakness in the financial administration of cities is likely to be found at this point. The fundamental principle to be observed, and usually aimed at in the laws of the state, is to make adequate provision for the payment of a debt at the time it is created. On this point Professor Adams speaks for all writers on municipal finance when he says that "in local affairs, early provision for the payment of debt is evidence of sound business principles. All the facts bearing upon the question are known to the authorities when they determine to borrow money, and there is consequently no reason why they should not make adequate provision for expunging a debt at the time it is created."[3] The sinking fund is usually the method

[1] *Annual Reports*, 1878, p. 22. Act of May 1, 1878 [illegible]

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relied upon in American cities to cancel maturing obligations.

By the general laws of 1852 the city was required to levy and collect, in addition to all other taxes, not more than one-half mill, to be applied in payment of the funded debt and for "no other purpose whatever." [1] By an amendment in 1861 a levy of not less than one mill, nor more than three mills, was required until all outstanding debt was fully provided for.[2] In spite of full powers to establish and maintain sinking funds, the record of succeeding years is one of neglect and indifference. Want of early steps to provide for the payment of maturing bonds created in the term of Mayor Otis what he called an "emergency in financial management;" [3] the lack of adequate sinking funds has called for much refunding of debts which should have been cancelled at maturity. Special power is given to the Council to issue refunding bonds whenever necessary on account of limits placed on the power of taxation, or when that body deems it to be to the best interest of the municipality not to pay certain bonds.[4]

§ 95. *Sinking Fund of 1862.* By far the most important sinking fund of the city is the so-called Sinking Fund of 1862, the foundation of which was laid in certain railroad stocks owned by the city. Unlike the other sinking funds, its accumulations have resulted solely from income on investments and not at all from taxation.

Early railroad corporations in Ohio made pretty successful appeals for the use of the credit of the local units of the state. Before the Constitution of 1851 was adopted the counties had taken a total of $4,128,000 of stock in the

[1] § 91. [2] Act of March 28, 1861, 58 O. L., 46.
[3] *City Documents*, 1874, p. xiv.
[4] *Municipal Code*, § 96.

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various corporations formed in the state; cities, towns, and townships had subscribed for an additional $1,507,500 and to pay for this stock bonds were issued.[1] Cleveland was induced to make subscriptions to three roads. In 1846[2] commissioners were appointed by the Legislature to act for Cleveland in subscribing for $100,000 of stock in the Cleveland, Columbus and Cincinnati Railroad and to issue an equal amount of bonds in payment, the company agreeing to accept them at par. Six per cent bonds issued in 1848, payable in 1859, were sold at 88; a year later a second issue of $100,000 was authorized. In the three years during which the road was being built taxes amounting to $24,800 were levied to pay interest on the bonds. Both principal and interest were finally paid from dividends, and a net profit of $116,084 remained in 1862.[3] The second venture, however, was not so successful, though apparently entered upon with less hesitation. In 1849 an issue of $100,000 was made to purchase stock in the Cleveland and Pittsburg Railroad.[4] The only income from this investment was $8,220 realized from a sale of stock dividends; when the bonds matured in 1859 the principal and $14,606 ac-

[1] *Annual Report of Auditor of State for 1873*, pp. 269-271.

[2] Act of February 24, 1846, 44 O. L., 167.

[3] An account of these transactions from the side of the railroad corporation is given in the *Second Annual Report of the Directors of the Cleveland, Columbus and Cincinnati Railroad Co.*, January 12, 1853, p. 5. In the *Third Annual Report* (p. 9) the Directors say: "Cleveland and Columbus cities, then at the lowest stage of depression, came into the work with hesitation and reluctance. . . . It has profited every one who has invested in its stocks or its bonds; it has duplicated the wealth of the country which it penetrates, and trebled that of the two flourishing cities which it connects."

[4] Authorized by act of February 16, 1849, 47 O. L., 149. The vote

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cumulated interest were paid by the commissioners in charge of the C., C. and C. stock. The balance of the $60,000 interest was met by taxes levied on the first seven wards of the city in accordance with the terms of annexation between Ohio City and Cleveland in 1854. A third railroad investment was made by the city before the new Constitution went into effect. In the spring of 1851 seven per cent bonds were issued for $100,000 to purchase stock of the Cleveland, Painesville and Ashtabula Railroad Company,[1] which agreed to pay interest on the bonds until its dividends reached seven per cent. From the first the road was successful. Within three years stock dividends of twenty-five, twenty, and thirty per cent were issued, stock still being quoted at 125. At this figure Cleveland sold, with certain reservations, its original stock of $100,000 to the Cleveland, Zanesville and Cincinnati Railroad. The conditions of the sale and the subsequent use made of the stock by the purchasing company involved the city of Cleveland and brought the transaction into the courts. Litigation dragged on until 1865, when the Supreme Court rendered judgment in favor of Cleveland for $164,000.[2]

In the meantime a Sinking Fund Commission had taken the place of the boards of special commissioners in charge of the three railroad investments. By an act of March, 1862,[3] the railroad stocks of the city were made over to a fund for the redemption of a portion of the water-works debt at its maturity. Control of the fund was vested in a Board of Commissioners which on May 1, 1862, received

[1] Authorized by act of February 13, 1851, 49 O. L., 502.

[2] A summary of the facts relating to Cleveland's railroad investments

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from the former boards a par value of $361,378. The failure of a New York depositary reduced the amount to $327,962; the sale of Cleveland and Pittsburg stock also entailed a loss,[1] but the assets of the sinking fund on January 1, 1863, amounted to $332,060. In 1867 in consolidating with the Cleveland and Toledo railroad company the Cleveland, Painesville and Ashtabula road issued and distributed to its stockholders dividends of seventy-five and twenty per cent in bonds.[2]

The growth of the fund was altogether remarkable and did much to stimulate later foundations. The primary purpose in creating it was, as we have said, to pay the debt incurred in building the Water Works, and in 1869 the Council by ordinance further pledged the sinking fund to this use.[3] When it was found that a surplus would remain after the $925,000 bonds were paid a lively discussion in the Council and the public press ensued as to what use should be made of it,—a discussion and rivalry that has never ceased. The contract of annexation between Cleveland and Ohio City not only relieved the latter from any obligation incurred on account of railroad stocks, but also provided that such property, together with any gain from it, should be used for the special benefit of the city of Cleveland, as it was constituted prior to annexation, either by the purchase of public parks, or in such other manner as the majority of trustees representing the original territory might direct.[4] About the

[1] The C. and P. stock had never paid dividends and the special commissioners had recommended its sale if as much as 18 could be obtained. The Sinking Fund Commissioners sold it soon after, receiving 42½. Presently, though stock dividends were issued, it rose to 130.

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right of the "trustees of the first seven wards" to continue to determine the use of this fund discussion began to revolve in 1878. No court, the City Auditor believed, would ever sustain the contract of 1854, if an attempt were made to divert the fund from its legitimate object,—the payment of the general bonded debt of the city.[1] On the basis of ethical obligation the Mayor appealed to the "trustees of the first seven wards" to make that use of the surplus funds, and to insure such a disposition of them the Legislature was induced to pass a law in 1878[2] providing that no part of the sinking fund "shall be used for any other purpose than the payment of the bonded indebtedness." The Commissioners claimed that control of the fund was thus substantially taken from them and dissatisfaction on the part of the original wards secured an amendment in 1882[3] whereby any residue after paying the water-works debt could be used for "enlarging the Water Works and the city's part of the cost of repaving streets, the remainder to be applied to the payment of the general bonded indebtedness of the city." Thus the way was opened for using the sinking fund where current revenues should have been employed. In 1890 the assets of the fund were reduced to their lowest point between 1869 and 1906. At least $650,000 had been appropriated to meet the cost of repaving streets; $53,000 had been used for the fire department, and $125,000 for bridge purposes. In 1885 the current expense of lighting the city was taken from the sinking fund.[4] Over $600,000 were used to pay off bonded debt other than that of the Water Works, but after 1892 the fund was practically undisturbed, its assets amounting on January 1, 1906,

[1] Auditor's Report, *City Documents*, 1877, pp. 4-5; 1878, pp. 25-26.

[2] Act of May 13, 1878, 75 O. L., 1164.

[3] Act of January 19, 1882, 79 O. L., 54.

[4] *Proceedings of the Board of Aldermen*, September 14, 1885.

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to $2,240,325. Early in 1906 the City Hall property and other real estate needed to carry out the proposed "group plan" of public buildings were purchased at a cost of $1,900,000. The balance of about $350,000 will probably be used very soon for the establishment of small parks in the older parts of the city. "Unlawful diversion of funds" and the "rights of the original seven wards" will be used as watchwords of self-constituted champions of the old compact until the last dollar is paid out and the "Sinking Fund of 1862," which proved in a large degree to be not a sinking fund at all, ceases to exist.

§ 96. *Viaduct Sinking Fund.* A half dozen other sinking funds have played a minor rôle in the city's financial history. The Viaduct Sinking Fund was created in 1879 to provide for the payment of bonds issued to construct the Viaduct. The Supplementary Viaduct Act in 1878[1] required the Council within two years after its passage to establish a sinking fund to extinguish the debt authorized; it was specifically provided also that the proceeds of sale or lease of any lands acquired for viaduct purposes should be turned over to the sinking fund. From this source $26,000 was realized. The principal foundation of the fund, however, consisted of $265,000 of first mortgage seven per cent bonds of the Valley Railroad Company, paid to the city for a ninety-nine year lease on two and one-fourth miles of the bed of the Ohio Canal to which the city acquired title after moving the terminal lock that distance up the river.[2] Finally, before the establishment of the fund

[1] *Supra*, p. 163.

[2] Act of April 29, 1872 (69 O. L., 182). The city undertook the reconstruction of the canal terminal and paid the lessees of the Public Works $125,000 for their interest in the portion of the Canal abandoned, in order to promote the interests of the Valley Railroad Company. The whole transaction was an unprofitable one for the city. (*City Documents*, 1874, p. xx, 159; 1877, pp. 41, 431; 1879, p. 43.)

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authority was secured to levy an annual tax not exceeding two mills.[1] An ordinance in 1879[2] transferred control of the fund to the Commissioners of the Sinking Fund of 1862 and by them it was invested in railroad securities.

§ 97. *General Sinking Fund.* Mayor Payne especially urged this disposition of the Viaduct Sinking Fund in order that its resources might be invested and not allowed to lie idle in the treasury to be used illegally in meeting deficits in various departments and encouraging extravagance.[3] The latter course had been pursued with the so-called General Sinking Fund. An annual tax levy of not less than one mill nor more than three mills was required by law to meet maturing general bonds; but, although called a sinking fund, no part of it had ever been invested, the levy being made each year sufficient to meet the bonds maturing the succeeding year. An average surplus of $146,000 had existed for a long time and could most profitably have been invested in the seven per cent bonds of the city. The General Sinking Fund also was, therefore, in 1879 put into the hands of the Sinking Fund Commissioners.[4] Two years later unappropriated moneys were set aside for the fund,[5] but accumulation was very slow; at the beginning of 1891 its assets amounted to only $67,319 and in 1892 the fund disappeared.

In 1887 a Water Works Sinking Fund was established and put in charge of the Sinking Fund Commissioners. At the beginning of the year the city Treasurer paid over $75,000 which was deposited in bank and earned $1,281; at the end of the year it was paid back to the treasury. Had the fund been kept up and invested, the water-works

[1] Act of May 13, 1878, 75 O. L., 523. [2] April 2, 1879.

[3] *City Documents*, 1875, p. xvi.

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debt would now be somewhat smaller and means would be at hand for paying bonds as they mature, instead of renewing them.

§ 98. *City Hall Sinking Fund.* As early as 1881 the Council took up the question of creating a City Hall Sinking Fund to enable the city to erect a suitable municipal building at the expiration of its lease in 1900.[1] By an ordinance in 1889 such a fund apparently was established and a tax of four-tenths of a mill levied for eight years.[2] In 1892 the gross receipts tax of six and one-half per cent was imposed on the gas companies and the revenues assigned to this fund, which in 1895 was turned over to the Sinking Fund Commissioners. An act of 1898 [3] sanctioned the use of the gas receipts for paying interest and principal of the debt to be created for the erection of a city hall. It also required the Council to levy annually a tax for the same purpose. Delay in construction of a municipal building and the urgent need of funds for other objects have led to a depletion of the fund. The existing balance of $125,000 would now be used for beginning the foundations of the building, had it not been decided that it cannot be used legally for any purpose except the payment of the principal and interest of bonds issued in constructing a city hall. Receipts from the gas companies are now credited to the lighting fund.

§ 99. *School and Library Sinking Funds.* The School Sinking Fund had its beginning in 1887, when one-third of the amount of a debt of $100,000, due in 1890, was set aside. The second third was reserved in 1888, but all was lost in the Axworthy defalcation, which put upon the

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request provision was made by the Legislature[1] for a sinking fund, to be managed by an independent commission of five members. It was established in 1893 and by means of its earnings and a small annual tax levy has been able to pay most of the interest and bonded indebtedness as it has come due.

The Library also has a sinking fund designed to pay its bonded indebtedness of $250,000. The fund is managed by a board of three Commissioners appointed by the Court of Common Pleas.

§ 100. *Present Condition of Sinking Funds.* Until the new Municipal Code went into effect all sinking funds except the school and library, were managed by the Commissioners of the Sinking Fund of 1862, a self-perpetuating body. The Code provides a bi-partisan board of four trustees to manage the sinking fund.[2] The new trustees were appointed by the Mayor on May 27, 1903, and the old board directed to turn over to them the funds in its possession. This it did with the exception of the original fund of 1862. The new sinking fund trustees have charge of the city debt, and provide for the payment of bonds and interest; they certify to the Council annually the tax levy necessary to provide payment for bonds to be issued, for interest charges and the expenses of management of the sinking fund. This levy the Council has no power to alter and it is required to place it in the tax ordinance in preference to any other item.[3] Premiums and accrued interest on bonds are required to be transferred to the sinking fund and in case of bonds to be paid by special assessments, must be applied to the principal and interest of those bonds

[1] Act of March 17, 1893, 90 O. L. S., 97.

[2] § 102. The Sinking Fund Trustees are also a Tax Commission. *Cf.* pp. 46-47.

[3] § 108.

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APPENDIX A

ASSESSED VALUATION OF PROPERTY

YEAR.	Real.	Personal.	Total.
1840	$1,222,917	$285,683	$1,508,600
1849	3,091,110	1,374,680	4,465,790
1853	17,074,461	8,705,866	25,780,327
1854	17,594,979	6,937,392	24,532,371
1855	17,252,703	4,204,297	21,457,000
1856	17,252,703	3,753,008	21,005,711
1857	17,497,739	4,151,199	21,648,938
1858	17,625,548	4,325,881	21,951,429
1859	17,760,313	4,275,275	22,035,588
1860	14,471,184	4,150,250	18,621,434
1861	14,473,875	3,736,270	18,210,145
1862	13,967,193	4,878,267	18,865,460
1863	14,065,137	6,745,975	20,811,112
1864	14,212,122	8,285,470	22,497,592
1865	14,577,281	12,588,508	27,165,789
1866	14,965,988	13,591,265	28,557,253
1867	15,719,458	15,433,393	31,152,851
1868	17,437,361	17,684,058	35,121,419
1869	18,063,018	18,399,949	36,462,967
1870	18,941,045	17,612,477	36,553,522
1871	40,107,651	17,734,095	57,841,746
1872	40,668,491	19,060,380	59,728,871
1873	46,279,952	22,864,730	69,144,682
1874	49,322,702	23,887,442	73,210,144
1875	50,698,560	22,606,717	73,305,277
1876	51,466,940	22,095,297	73,562,237
1877	51,732,029	19,564,093	71,296,122
1878	52,187,400	17,952,239	70,139,639
1879	52,481,710	18,066,394	70,548,104
1880	53,165,295	20,481,899	73,647,194
1881	59,152,445	20,433,711	79,586,156
1882	60,915,745	21,693,334	82,609,079
1883	62,812,185	21,677,875	84,490,060
1884	64,137,055	21,840,950	85,978,006
1885	65,436,025	22,849,820	88,285,845
1886	66,609,175	24,475,231	91,084,406
1887	67,926,380	25,702,030	93,628,410
1888	69,136,345	26,786,240	95,922,585
1889	70,730,395	25,218,750	95,949,135
1890	72,734,940	26,879,115	99,614,055
1891	89,512,700	28,320,505	117,833,205
1892	91,782,150	29,498,065	121,280,215
1893	95,508,220	31,007,770	126,515,990
1894	100,891,800	31,748,105	132,639,905
1895	103,223,110	31,339,795	134,562,905
1896	105,089,320	33,384,065	138,473,385
1897	106,753,620	35,161,810	141,915,430
1898	104,932,280	37,358,495	142,290,775
1899	108,265,890	36,806,095	145,071,985
1900	109,242,770	40,526,650	149,769,420
1901	143,323,490	53,130,155	196,453,645
1902	146,374,090	[illegible]	192,694,970
1903	[illegible]	[illegible]	203,215,230

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APPENDIX A—CONTINUED

TAX LEVIES FOR STATE, COUNTY AND MUNICIPAL PURPOSES PER $1000

YEAR.	State.	County.	City.	School.	Library.	Total.
1836	$1.25	.....	.....	.....	.....	.....
1837	1.50	.....	.....	.....	.....	.....
1838	2.00	.....	.....	.....	.....	.....
1839	2.00	.....	.....	.....	.....	.....
1840	2.00	.....	.....	.....	.....	.....
1841	1.75	.....	.....	.....	.....	.....
1842	1.75	.....	.....	.....	.....	.....
1843	1.75	.....	.....	.....	.....	.....
1844	1.00	.....	.....	.....	.....	.....
1845	1.00	.....	.....	.....	.....	.....
1846	3.00	.....	.....	.....	.....	.....
1847	2.75	.....	.....	.....	.....	.....
1848	3.00	.....	.....	.....	.....	.....
1849	3.00	.....	.....	.....	.....	.....
1850	3.20	.....	.....	.....	.....	.....
1851	3.60	.....	.....	.....	.....	.....
1852	3.50	.....	.....	.....	.....	.....
1853	5.10	.....	$11.25	.....	.....	.....
1854	3.55	.....	7.125	$2.00	.....	.....
1855	3.20	.....	6.875	.75	.....	.....
1856	3.20	.....	.....	.....	.....	$11.775
1857	3.10	.....	8.00	3.75	.....	13.60
1858	3.55	.....	8.50	.....	.....	14.85
1859	3.55	.....	8.00	.....	.....	14.70
1860	3.95	.....	8.50	.....	.....	15.25
1861	4.55	.....	.....	.....	.....	19.25
1862	4.65	.....	.....	.....	.....	16.30
1863	5.05	.....	.....	.....	.....	21.20
1864	5.30	.....	17.25	3.00	.....	22.30
1865	5.30	.....	17.25	3.00	.....	27.55
1866	3.50	.....	19.75	2.50	.....	24.75
1867	3.50	.....	.....	3.10	.....	25.15
1868	3.50	.....	20.15	3.50	.....	26.70
1869	3.50	.....	19.25	4.10	.....	30.00
1870	4.00	.....	20.75	4.10	.....	31.00
1871	2.90	.....	12.50	2.75	.....	19.80
1872	2.90	.....	18.50	3.10	.....	23.10
1873	3.05	.....	18.65	3.60	.....	24.00
1874	3.01	.....	18.80	4.60	.....	28.00
1875	3.01	.....	18.75	5.10	.....	29.50
1876	2.90	.....	18.75	4.60	.....	29.50
1877	2.90	.....	17.85	4.60	.....	28.60
1878	2.90	.....	15.35	4.30	.....	25.50
1879	2.90	.....	15.05	4.50	.....	25.40
1880	2.90	.2.90	15.75	4.75	.....	26.30
1881	2.90	2.90	14.05	4.75	.....	24.60
1882	2.90	3.00	14.15	4.75	.....	24.80
1883	2.90	2.90	15.75	6.25	.....	27.80
1884	2.80	2.30	14.20	6.20	.....	25.50
1885	2.90	2.50	14.35	6.25	.....	26.00
1886	2.90	2.50	13.15	6.25	.....	24.80
1887	2.90	2.80	16.15	6.25	$0.20	28.30
1888	2.90	2.80	16.15	6.20	.25	28.30
1889	2.70	3.30	15.45	6.20	.25	27.90
1890	2.70	2.80	15.45	8.10	.25	29.30
1891	2.45	3.45	15.45	6.70	.25	28.30
1892	2.75	3.05	13.45	7.00	.25	27.50

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APPENDIX B

RECEIPTS

EAR.	Cash on hand.	Total Receipts.	I. General Property Taxes.					II. Special Assessments.	III. Street Car License.	IV. Licenses, Permits and Fines.
			Total Property Taxes.	General Municipal Levies.	Sewer District—Special Levy.	School Levies.	"Poll Taxes."			
.....	.....	$45,776	$16,410	$13,857	.....	$2,553	$550	$27,288	.....	$1,478
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	8,488	4,382	2,289	.....	2,093	884	1,286	.....	1,656
.....	.....	21,618	14,622	10,415	.....	4,207	872	4,777	.....	764
.....	.....	23,402	22,007	15,404	.....	6,603	481	.....*	.....	607
.....	.....	8,715	7,039	6,039	.....	1,000	127	.....	.....	1,080
.....	.....	14,901	14,129	9,235	.....	5,094	.....	.....	.....	639
.....	.....	16,448	15,502	11,141	.....	4,361	.....	.....	.....	843
.....	.....	13,410	12,263	7,968	.....	4,295	254	.....	.....	655
.....	.....	14,044	13,373	8,651	.....	4,722	.....	.....	.....	671
.....	.....	32,003	30,082	18,658	.....	11,424	173	.....	.....	553
.....	.....	22,768	18,393	12,385	.....	5,908	1,300	.....	.....	597
.....	.....	23,064	19,967	14,358	.....	5,909	1,131	.....	.....	696
.....	.....	28,722	24,096	15,573	.....	8,523	1,497	.....	.....	1,221
.....	.....	52,334	42,484	25,470	.....	17,014	2,444	.....	.....	4,188
.....	.....	72,381	65,835	44,127	.....	21,708	2,447	.....	.....	1,727
.....	.....	118,176	110,753	85,632	.....	25,121	.....	.....	.....	4,038
.....	.....	281,696	251,792	193,109	.....	58,683	.....	14,844	.....	4,898
.....	*$16,885	233,843	186,911	146,590	.....	40,321	.....	22,345	.....	8,393
.....	29,306	206,823	175,680	142,426	.....	33,254	.....	11,241	.....	7,323
.....	59,924	235,047	207,550	166,723	.....	40,827	.....	19,149	.....	4,735
.....	7,535	177,497	152,901	102,157	.....	50,744	.....	6,657	.....	2,256
.....	.....	241,051	200,522	158,992	.....	41,530	.....	19,181	.....	1,375
.....	22,327	237,127	168,666	147,371	$1,710	19,585	.....	14,472	.....	1,267
.....	87,219	*278,667	244,886	225,657	920	18,309	.....	8,439	.....	328
.....	.....	*262,152	248,220	196,928	4,545	46,747	.....	396	$40	1,655
.....	1,139	360,875	239,549	186,234	5,805	47,510	.....	1,433	170	8,734
.....	15,006	561,454	313,071	239,763	6,142	67,166	.....	64,976	40	3,881
.....	35,814	704,622	437,500	346,411	10,464	80,625	.....	106,594	100	6,206
.....	36,034	888,784	518,535	445,499	.....	73,036	.....	116,491	.....	12,668
.....	159,784	1,021,992	578,479	378,184	80,752	119,543	.....	249,334	100	14,239
.....	61,839	1,014,018	581,329	338,127	126,653	116,549	.....	219,427	270	6,932
.....	58,316	1,229,178	805,256	571,306	92,115	141,835	.....	259,463	260	9,359

Vide notes, p. 239.

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APPENDIX B—CONTINUED

RECEIPTS

AR.	V. Gifts.	VI. From Other Civil Divisions.	VII. From Sales of Property.	VIII. Interest Receipts.	IX. Departmental Receipts. 1. General Government.	2. Protection to Life and Property.	3. Health Conservation and Sanitation.	4. Highways.	5. Charities and Correction.	6. Education.
.....	.....	•	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	$147	.....	.....	$137	.....	.....	.....	.....
.....	.....	.....	14	.....	.....	366	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	41	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	131	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	103	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	$238	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	505	.....	.....
.....	.....	.....	.....	.....	.....	296	.....	928	.....	.....
.....	.....	.....	.....	.....	.....	528	.....	1,186	.....	.....
.....	.....	.....	.....	.....	.....	64	.....	1,794	.....	.....
.....	.....	.....	.....	.....	.....	463	.....	964	.....	.....
.....	.....	.....	96	$995	.....	.....	.....	.....	.....	.....
.....	.....	.....	739	560	.....	186	.....	827	.....	.....
.....	.....	.....	18,925	.....	.....	231	.....	.....	.....	.....
.....	$6,499	.....	354	.....	.....	.....	.....	107	.....	$1,499
.....	.....	.....	800	.....	.....	16	.....	.....	$11,456	20
.....	.....	.....	1,533	.....	.....	8	.....	88	8,402	20
.....	.....	$215	.....	800	.....	45	.....	.....	950	19
.....	.....	.....	500	.....	.....	.....	.....	.....	581	16
.....	.....	.....	1,463	555	.....	100	.....	.....	.....	48
.....	.....	20,576	2,448	181	.....	.....	.....	12	5,794	3,541
.....	.....	21,009	.....	.....	$5	.....	.....	22	.....	80
.....	.....	.....	.....	8	27	50	$75	4,539	18	185
.....	.....	22,659	3,250	48,451	73	267	.....	500	3,742	481
.....	.....	*76,967	4,038	42,008	103	349	.....	1,619	13,030	300
.....	.....	*58,652	1,830	26,309	219	32	.....	.....	4,590	363
.....	.....	*38,145	43,364	51,395	292	50	.....	26,058	9,336	455
.....	.....	.....	6,727	67,991	60	5	.....	.....	4,748	2,954
.....	.....	38,108	3,441	45,787	.....	.....	.....	.....	5,183	4,866
.....	.....	42,162	1,358	*616	.....	154	.....	.....	3,218	215

Vide notes, p. 239.

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APPENDIX B—CONTINUED

RECEIPTS

YEAR.	8. Receipts from Municipal Industries.							Receipts from Loans.		
	Total.	Water Works.	Markets.	Docks and Wharves.	City Scales.	Cemeteries.		Total.	Bonds Sold, Par Value.	Temporary Loans.
						Sale of Lots.	All Other.			
.....	$194	.....	$50	.....	$144	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	$2,506	.....	$2,506
.....	314	.....	203	.....	111	.....	.....	10,212	$10,212	.....
.....	432	.....	176	.....	137	$119	.....	2,018	2,018	.....
.....	408	.....	.....	$50	.....	358	.....	.....	.....	.....
.....	133	.....	.....	.....	.....	133	.....	.....	.....	.....
.....	373	.....	.....	.....	.....	373	.....	.....	.....	.....
.....	563	.....	.....	.....	178	385	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	899	.....	.....	.....	115	784	.....	.....	.....	.....
.....	1,950	.....	543	135	391	881	.....	4,042	2,842	1,200
.....	1,206	.....	431	90	532	153	.....	1,100	.....	.....
.....	1 463	.....	511	120	525	307	.....	3,598	649	2,949
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	2,223	.....	571	1,042	610	.....	.....	8,754	.....	8,754
.....	1,626	.....	410	429	787	.....	.....	960	.....	960
.....	3,154	.....	1,096	917	1,141	.....	.....	.....	.....	.....
.....	2,163	.....	669	.....	1,209	285	.....	37,398	8,000	29,398
.....	3,902	.....	1,000	773	1,143	976	.....	.....	.....	.....
.....	4,061	.....	1,497	684	1,116	764	.....	.....	.....	.....
.....	11,584	$3,784	198	1,271	798	533	.....	9,501	.....	9,501
.....	14,586	9,847	.....	592	1,258	2,889	.....	190,090	.....	190,090
.....	17,807	13,824	129	579	935	2,340	.....	67,778	.....	67,778
.....	20,170	16,793	265	310	462	2,340	.....	165,916	3,070	162,846
.....	3,823	*.....	347	590	.....	2,886	.....	335,716	74,900	260,816
.....	7,014	*.....	455	825	.....	5,734	.....	215,192	13,289	201,903
.....	34,816	23,421	613	845	.....	9,937	.....	280,441	.....	280,441
.....	45,110	33,389	471	1,190	627	9,433	.....	121,440	121,440	.....
.....	62,238	45,364	992	1,430	1,289	13,163	.....	55,263	26,385	28,878
.....	71,995	51,862	880	2,080	1,563	15,361	.....	.....	.....	.....
.....	97,355	57,298	22,593	1,280	1,432	14,752	.....	357,455	66,000	291,455
.....	109,275	62,870	19,948	1,315	1,558	23,584	.....	111,993	111,993	.....
.....	107,117	70,411	18,811	197	1,119	16,579	.....	762,187	762,187	.....

Vide notes, p. 239.

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APPENDIX B—CONTINUED

RECEIPTS

YEAR.	Cash on Hand.	Total Receipts.	I. General Property Taxes.					
			Total Property Taxes.	General Municipal Levies.	Pension Funds.	Sewer District—Special Levy.	School Levies.	Library Levies.
.....	$70,252	$1,420,579	$880,724	$624,026	.....	$111,648	$145,050	.....
.....	95,949	1,636,473	1,135,469	854,209	.....	130,458	150,802	.....
.....	.....	607,126	323,801	256,178	.....	67,623	.....	.....
.....	111,901	1,774,359	923,316	616,784	.....	119,589	186,943	.....
.....	272,872	2,520,637	1,552,264	1,174,419	.....	137,682	240,163	.....
.....	502,127	2,683,508	1,832,048	1,381,921	.....	129,666	320,461	.....
.....	457,847	3,084,551	2,602,146	2,243,554	.....	.....	358,592	.....
.....	440,771	3,718,194	3,241,132	*2,917,979	.....	.....	323,153	.....
.....	419,878	2,677,662	1,447,875	1,252,198	.....	.....	195,677	.....
.....	363,086	2,530,062	1,359,987	1,065,461	.....	.....	294,526	.....
.....	185,919	2,602,324	1,379,384	1,069,099	.....	.....	292,600	$17,687
.....	294,230	2,581,337	1,536,605	1,154,741	.....	.....	363,831	18,033
.....	229,712	2,699,546	1,480,187	1,125,518	.....	.....	335,043	19,626
.....	163,383	2,893,803	1,971,510	1,587,229	.....	.....	372,003	12,278
.....	189,735	2,865,394	2,150,049	1,690,930	.....	.....	438,783	20,336
.....	271,427	2,870,575	2,100,321	1,584,848	.....	.....	497,189	18,284
.....	254,803	2,860,674	2,072,895	1,531,543	.....	.....	521,377	19,975
.....	363,714	3,409,307	2,119,047	1,559,585	.....	.....	537,084	22,378
.....	240,228	3,833,771	2,671,393	2,076,035	.....	.....	571,968	23,390
.....	486,352	3,790,404	2,541,113	1,949,849	.....	.....	568,555	22,709
.....	554,134	*3,725,087	1,757,023	1,668,545	.....	54,618	..... *	33,860
.....	731,596	4,356,670	2,375,978	1,522,850	.....	124,817	703,905	24,406
.....	1,103,232	4,959,729	2,945,896	2,003,058	31,341	111,975	770,796	28,726
.....	1,761,099	5,078,161	*2,789,722	1,746,968	32,063	120,363	860,794	29,534
.....	2,348,474	5,446,852	3,029,155	1,792,804	15,608	192,604	992,040	36,099
.....	2,333,975	5,389,674	3,034,374	1,839,954	32,507	180,166	953,759	57,988
.....	1,648,892	5,548,977	3,043,294	1,838,949	32,786	128,438	978,154	64,967
.....	2,328,865	5,678,333	3,252,251	1,923,209	35,104	160,445	1,064,018	69,375
.....	2,801,842	5,696,240	3,321,428	1,901,046	35,682	200,122	1,115,684	68,894
.....	3,635,427	6,126,097	3,442,887	1,940,007	34,277	223,906	1,180,353	63,844
.....	3,628,183	6,557,955	3,500,923	1,992,009	36,495	120,838	1,264,804	86,777
.....	4,472,650	6,951,133	3,697,763	1,956,028	39,746	194,870	1,418,271	88,848
.....	3,987,248	7,435,950	4,422,805	2,371,951	38,856	207,262	1,654,792	149,464
.....	5,377,263	9,033,968	5,335,336	2,870,995	19,717	293,652	1,987,917	163,055
.....	5,427,199	8,937,930	5,410,368	2,793,264	55,177	302,188	2,069,916	169,803
.....	6,842,414	9,229,084	5,529,277	2,966,058	.....	240,883	2,105,546	196,791
.....	6,856,218	.....	.....	.....	.....	.....	.....	.....

*Vide, notes p. 229

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APPENDIX B—CONTINUED

RECEIPTS

YEAR.	II. Special Assessments.	III. Public Service Privileges.			IV. Licenses, Permits and Fines.					
		Total.	Street Railway Companies.	Gas Companies.	Total.	Liquor License.	Cigarette License and Dog Tax.	Vehicle License.	Venders' License.	Theatre and Show License.
.....	$245,336	60	60	.....	$11,811	.....	.....	$568	$762	$672
.....	200,186	570	570	.....	13,467	.....	.....	763	382	.....
.....	113,490	.....	*.....	.....	15,651	.....	.....	.....	.....	.....
.....	*462,810	.....	.....	.....	22,150	.....	.....	.....	.....	.....
.....	592,126	.....	.....	.....	21,319	.....	.....	.....	.....	.....
.....	420,461	.....	.....	.....	15,260	.....	.....	.....	.....	.....
.....	*.....	.....	.....	.....	15,290	.....	.....	.....	.....	.....
.....	*.....	.....	.....	.....	22,661	.....	.....	.....	.....	.....
.....	680,050	.....	.....	.....	29,820	.....	*$5,000	.....	.....	.....
.....	566,021	490	490	.....	25,692	.....	7,578	1,142	3,254	47
.....	514,826	1,020	1,020	.....	28,478	.....	3,751	1,271	4,068	450
.....	381,145	821	821	.....	31,833	.....	6,051	1,404	4,501	506
.....	491,106	835	835	.....	36,859	.....	4,778	1,780	5,950	656
.....	*.....	1,038	1,038	.....	37,161	.....	5,191	1,852	7,687	725
.....	.....	1,496	1,496	.....	27,992	.....	3,999	1,843	7,992	534
.....	.....	1,700	1,700	.....	28,447	.....	957	1,869	8,364	1,215
.....	.....	2,150	2,150	.....	34,104	.....	4,646	1,679	7,087	802
.....	.....	2,270	2,270	.....	382,431	$348,000	5,279	1,790	6,657	635
.....	.....	2,240	2,240	.....	269,870	229,779	3,768	1,655	8,508	760
.....	.....	1,810	1,810	.....	358,029	310,435	2,981	1,364	8,919	660
.....	499,890	3,290	3,290	.....	472,301	400,570	10,853	1,451	9,302	961
.....	545,028	3,080	3,080	.....	346,928	270,801	2	1,023	10,653	865
.....	473,606	6,740	6,740	.....	349,952	300,327	.....	1,435	9,939	711
.....	550,935	49,033	6,920	42,113	508,568	461,440	.....	999	12,190	707
.....	676,622	51,705	6,660	45,045	416,141	368,358	.....	926	11,056	677
.....	695,548	57,506	7,060	50,446	427,579	358,223	3,953	1,429	13,990	1,222
.....	555,035	63,102	7,640	55,462	456,106	389,303	2,328	1,168	14,971	1,294
.....	471,765	66,121	7,810	58,311	484,901	414,627	2,624	841	14,263	999
.....	577,418	69,366	7,520	61,846	469,775	414,121	2,560	174	8,003	836
.....	752,591	72,328	7,200	65,128	504,724	430,151	2,827	.....	3,572	589
.....	677,983	79,235	7,250	71,985	599,268	470,725	2,786	.....	1,394	245
.....	785,317	82,212	7,580	74,632	508,289	451,421	2,507	.....	1,373	.....
.....	782,098	92,594	8,310	84,284	523,512	479,719	2,613	499	1,355	.....
.....	962,688	96,352	8,900	97,452	560,557	509,792	3,047	672	1,562	.....
.....	969,343	103,695	9,290	94,405	570,079	539,526	3,130	497	1,571	.....
.....	888,612	96,205	8,840	87,365	664,192	568,242	3,065	867	1,588	.....

*Vide notes, p. 239.

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APPENDIX B—CONTINUED

RECEIPTS

EAR.	IV. Licenses, Permits and Fines.—*Continued.*						V. Gifts.	VI. From Other Civil Divisions.	VII. From Sales of Property.		
	Slaughter License.	Gardeners' License.	Building Permits.	Sewer and Water Permits.	Fines.	All Other.			Total.	From Real Property.	From Personal Property.
.....	.....	.....	.....	.....	$9,514	$295	$945	$48,458	$8,896	$6,637	$259
.....	.....	.....	.....	.....	11,363	959	.....	51,979	10,041	8,452	1,589
.....	.....	.....	.....	.....	15,121	530	.....	.....	180	30	150
.....	.....	.....	.....	.....	16,039	6,111	.....	57,599	615	.....	615
.....	.....	.....	.....	.....	14,120	7,199	250	58,866	1,000	1,000	.....
.....	.....	.....	.....	.....	10,812	4,448	20	69,804	27,483	25,060	2,423
.....	.....	.....	.....	.....	9,183	6,107	.....	82,397	6,166	6,016	150
.....	.....	.....	.....	.....	8,379	14,282	2,430	70,066	3,326	3,305	21
.....	.....	.....	.....	.....	9,225	15,585	27,682	88,308	3,912	3,895	17
.....	.....	.....	.....	.....	8,230	5,441	11,045	72,307	5,053	4,829	224
.....	.....	$35	.....	.....	11,907	6,996	55,955	73,907	21,434	20,344	1,090
.....	.....	210	.....	.....	18,121	1,040	13,857	76,210	7,311	7,260	51
.....	.....	660	.....	.....	21,776	941	18,626	82,848	.....	.....	.....
.....	.....	700	.....	.....	20,124	882	13,000	89,522	2,407	2,338	69
.....	.....	710	.....	.....	12,378	536	.....	92,658	2,656	2,656	.....
.....	$560	.....	.....	$3,870	11,148	464	2,044	92,281	2,206	2,206	.....
.....	1,010	1,510	.....	3,368	11,563	2,466	200	93,149	1,924	1,898	26
.....	690	1,960	.....	3,480	12,960	980	.....	99,011	5,413	5,360	53
.....	1,710	1,980	$4,802	.....	15,815	1,043	.....	100,277	7,022	7,022	.....
.....	1,040	2,150	9,533	.....	20,026	921	.....	95,807	1,486	1,176	310
.....	1,130	2,060	9,292	3,070	22,467	11,160	.....	104,385	51	.....	51
.....	1,160	2,100	8,498	4,024	22,856	24,944	.....	128,019	2,469	1,675	794
.....	1,230	1,730	8,120	.....	24,414	2,046	.....	126,916	4,174	4,200	174
.....	1,223	2,210	5,768	.....	22,938	1,093	.....	120,624	5,569	.....	5,569
.....	1,280	2,260	5,677	7,361	17,075	1,471	39,173	136,101	7,671	4,280	3,391
.....	1,300	2,370	5,906	10,575	26,917	1,694	.....	138,226	9,110	5,461	3,649
.....	1,460	2,440	5,375	8,412	27,275	2,080	257,230	143,674	6,420	4,405	2,015
.....	1,270	2,420	5,888	8,869	30,816	2,284	81,040	152,361	12,970	11,794	1,176
.....	940	2,710	6,317	9,154	23,413	1,547	500	154,769	17,932	15,126	1,806
.....	1,360	3,160	7,849	10,099	41,885	3,232	.....	156,342	4,792	1,485	3,307
.....	1,230	3,250	5,892	8,723	51,912	3,111	206,826	169,176	40,512	37,882	2,360
.....	1,390	2,930	8,658	8,310	31,292	408	.....	161,213	389,663	385,565	4,098
.....	1,190	2,800	9,523	10,007	13,725	2,081	.....	170,448	16,386	.....	16,386
.....	1,340	3,360	8,033	8,651	7,814	16,286	145,000	171,868	35,968	20,000	15,968
.....	1,240	3,470	7,964	7,041	4,171	1,469	90,178	196,178	102,254	83,090	19,164
.....	593	3,920	6,346	10,706	14,460	9,405	45,000	204,891	13,346	702	12,644

* *Vide* notes, p. 239.

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EAR.	VIII. Interest Receipts.				IX. Departmental Receipts.								
					1. General Government.				2. Protection to Life and Property.				
	Total.	From Deposits.	Earnings of Sinking Funds.	All Other.	Total.	Public Buildings and Lands.	Courts.	All Other.	Total.	Police.	Fire.	Inspection.	All Other.
.....	$93,970	.....	$93,354	$616	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	73,094	.....	71,778	1,316	$50	$50	.....	.....	$12,357	$12,357	.....	.....	.....
.....	.....	.....	.....	.....	10,884	.....	.....	$10,884	99	.....	.....	.....	$99
.....	99,081	.....	89,959	9,122	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	49,723	.....	44,055	5,668	1,168	1,168	.....	.....	3,114	.....	$3,114	.....	.....
.....	82,412	.....	77,369	5,043	9,693	5,637	.....	4,056	4,124	.....	4,124	.....	.....
.....	94,400	.....	89,348	5,052	44,199	13,412	.....	30,787	4,767	14	4,592	.....	161
.....	81,897	.....	80,288	1,609	6,545	.....	.....	6,545	8,288	5,541	2,697	.....	.....
.....	99,886	.....	93,000	6,886	21,981	8,433	.....	13,548	2,401	.....	2,401	.....	.....
.....	101,762	.....	101,762	.....	8,900	8,329	.....	571	2,767	.....	685	.....	2,082
.....	156,196	.....	136,286	19,910	11,867	10,458	.....	1,409	1,256	417	534	.....	305
.....	122,425	.....	122,425	.....	14,580	8,882	.....	5,698	4,580	.....	3,124	.....	1,456
.....	112,430	.....	112,430	.....	12,605	9,936	.....	2,669	2,705	13	2,327	.....	365
.....	105,110	$955	104,155	.....	90,886	9,855	$71	80,960	80,196	77,658	2,358	.....	180
.....	91,369	.....	85,045	6,324	11,990	11,055	935	.....	6,705	4,115	2,335	.....	255
.....	53,114	.....	49,746	3,368	40,054	11,132	1,026	27,896	44,241	20,214	23,902	.....	125
.....	41,499	.....	41,499	.....	20,800	9,596	.....	11,204	3,032	769	2,163	.....	100
.....	68,889	.....	51,333	17,556	77,312	10,589	74	66,649	3,140	275	2,735	.....	130
.....	67,761	.....	47,887	19,874	56,044	11,254	371	44,422	1,786	157	1,629	.....	.....
.....	46,800	.....	46,800	.....	21,547	9,241	889	11,417	1,844	68	1,776	.....	.....
.....	64,434	12,801	51,633	.....	24,139	9,271	13,202	1,666	8,267	6,942	1,325	.....	.....
.....	75,013	23,155	51,858	.....	24,633	12,202	12,431	.....	2,823	.....	.....	$2,823	.....
.....	77,577	39,280	23,215	15,082	23,599	10,586	13,013	.....	7,806	44	670	7,031	61
.....	97,016	76,388	20,628	.....	64,702	8,937	7,871	47,894	6,237	100	3,208	2,929	.....
.....	191,157	157,132	26,408	7,617	22,331	9,489	12,842	.....	4,970	.....	148	4,782	40
.....	92,452	64,407	21,189	6,856	36,463	11,853	24,610	.....	3,825	326	25	3,403	71
.....	107,222	73,199	29,268	4,755	22,543	6,988	15,557	.....	6,561	175	25	6,258	103
.....	151,994	86,102	28,784	37,108	23,615	8,907	14,708	.....	3,958	325	95	3,431	107
.....	157,517	103,639	35,946	17,932	22,148	6,748	15,400	.....	3,116	.....	.....	3,116	.....
.....	195,754	142,358	43,657	9,739	22,170	3,503	18,667	.....	4,554	.....	50	4,504	.....
.....	221,370	150,991	47,326	23,053	28,822	4,486	21,796	3,540	3,736	.....	407	3,329	.....
.....	241,130	178,463	54,358	8,317	34,364	3,286	26,991	4,087	2,772	.....	520	2,252	.....
.....	241,020	184,719	56,301	.....	20,806	2,295	13,326	5,185	2,434	.....	655	1,779	.....
.....	273,957	227,039	46,914	.....	48,896	35,733	13,163	.....	8,783	3,811	.....	4,972	.....
.....	296,896	235,942	60,518	436	24,096	16,733	7,363	.....	6,196	402	3,124	2,670	.....
.....	325,533	279,627	45,886	20	156,751	16,440	8,716	*131,595	2,504	.....	450	2,054	.....

Vide notes, p. 239.

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APPENDIX B—CONTINUED

RECEIPTS

R.	IX. Departmental Receipts.—*Continued.*										
	3. Health Conservation and Sanitation.			4. Highways.					5. Charities and Correction.		
	Total.	Health Department.	Night Soil.	Total.	Streets.	Paving.	Lighting.	Bridges and Viaducts.	Total.	House of Correction.	Infirmary.
.....	$80	$80	.....	$91	$91	.....	.....	.....	$3,639	.....	$3,639
.....	16	16	.....	5,026	5,026	.....	.....	.....	2,330	$2,330	.....
.....	.....	.....	.....	26,348	26,348	.....	.....	.....	10,663	5,803	4,860
.....	.....	.....	.....	291	.....	.....	.....	$291	33,539	28,958	4,581
.....	.....	.....	.....	18,044	8,386	$9,658	.....	.....	12,962	7,678	5,284
.....	.....	.....	.....	11,220	7,884	.....	619	.....	32,830	24,210	8,630
.....	585	.....	.....	10,130	5,766	.....	812	46	8,104	8,104	.....
.....	8,706	327	$7,379	894	.....	386	433	75	4,807	4,807	.....
.....	7,680	.....	7,680	17,327	2,510	2,802	.....	12,015	23,010	17,909	5,101
.....	6,010	.....	6,010	16,667	2,111	2,021	.....	12,535	31,250	21,444	9,806
.....	284	284	.....*	17,881	3,005	.....	.....	14,876	17,723	8,739	8,984
.....	1,297	1,297	.....	3,456	2,571	.....	2	883	12,561	7,665	4,896
.....	483	483	.....	10,847	10,084	.....	11	752	30,144	7,850	22,294
.....	126	126	.....	10,363	8,552	850	21	940	24,640	6,804	17,836
.....	644	644	.....	7,996	7,981	.....	15	.....	30,616	7,315	23,301
.....	1,023	1,023	.....	13,331	12,317	542	19	453	41,024	15,853	25,171
.....	41	41	.....	5,003	4,862	.....	141	.....	54,382	25,646	28,736
.....	26,347	810	25,537	12,520	11,322	.....	7	1,191	37,913	18,188	19,725
.....	24,944	1,319	23,625	13,151	12,988	.....	30	133	47,813	25,911	21,902
.....	27,812	812	27,000	19,298	16,994	.....	18	1,407	136,006	*116,287	18,721
.....	28,368	1,368	27,000	15,736	13,361	.....	.....	2,375	125,798	*108,882	16,916
.....	32,211	4,761	27,450	12,499	7,689	.....	.....	4,810	44,092	26,151	17,941
.....	32,524	1,175	31,349	24,562	22,450	.....	.....	2,112	57,479	19,311	38,168
.....	31,675	172	31,503	21,036	15,425	2,493	.....	3,118	95,456	62,212	33,244
.....	25,485	129	25,188	35,154	19,262	11,909	.....	3,992	63,777	26,367	37,410
.....	22,901	186	22,815	11,032	4,814	1,615	.....	4,603	64,950	25,389	39,561
.....	25,698	135	25,531	8,304	.....	4,167	884	3,253	81,953	25,667	56,286
.....	20,771	152	20,619	10,499	.....	6,494	1,043	2,962	33,390	21,933	11,457
.....	19,061	185	17,896	11,455	200	6,928	1,222	3,103	45,055	21,405	23,650
.....	15,042	258	14,764	18,122	1,166	11,651	2,803	2,302	27,690	7,653	20,037
.....	19,985	299	19,686	21,161	1,947	14,587	1,425	3,202	56,381	33,091	23,290
.....	20,096	335	19,761	16,818	5,334	9,466	929	1,089	58,802	27,102	26,700
.....	18,338	320	18,018	65,306	4,737	56,045	635	3,889	55,703	21,200	34,503
.....	21,050	415	20,635	138,786	25,030	104,937	5,542	3,277	64,354	21,961	42,393
.....	21,059	412	20,647	101,487	19,815	72,000	5,274	3,945	53,918	21,007	32,205
.....	*21,838	423	20,402	132,124	.....	122,017	6,326	3,782	65,990	31,304	34,786

*Vide notes, p. 230.

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IX. Departmental Receipts.—*Continued.*

	6. Education.					7. Recreation.	8. Municipal Industries.					
	Total.	Schools.		Libraries.		Parks.	Total.	Water Works.		Markets.	Docks and Wharves	City Scales.
		Tuition.	All Other.	Fines.	All Other.			"Rent."	All Other.			
.....	$514	$514	.....	.....	.....	.....	$126,135	*$89,487	.....	$27,949	$780	$1,456
.....	610	610	.....	.....	.....	.....	131,205	90,243	.....	22,165	930	1,598
.....	.....	.....	.....	.....	.....	.....	132,986	98,643	.....	17,510	.....	1,041
.....	577	577	.....	.....	.....	.....	172,381	106,481	.....	33,126	.....	.....
.....	442	442	.....	.....	.....	$200	209,459	119,717	.....	27,498	.....	578
.....	1,310	1,310	.....	.....	.....	.....	176,843	120,499	.....	19,834	602	1,785
.....	1,556	1,426	$130	.....	.....	60	215,336	137,950	.....	21,517	.....	1,803
.....	2,038	788	1,250	.....	.....	4,750	260,704	152,795	.....	26,656	.....	1,642
.....	1,340	816	773	$251	.....	.....	275,890	165,003	.....	23,053	.....	.....
.....	1,095	698	169	214	$14	.....	321,036	186,242	.....	27,051	570	.....
.....	1,165	586	262	294	23	.....	322,204	204,563	.....	21,610	886	.....
.....	1,380	763	201	382	34	.....	373,276	240,157	.....	33,980	1,190	.....
.....	.....	.....	.....	240	98	.....	419,872	251,432	.....	34,103	1,212	.....
.....	1,602	824	479	320	69	16	466,136	341,786	.....	25,980	752	.....
.....	1,105	625	192	280	8	.....	440,118	304,134	.....	44,554	635	.....
.....	1,377	646	207	440	84	168	449,244	322,810	.....	18,686	637	.....
.....	1,356	661	101	512	82	.....	530,139	362,418	.....	52,206	.....	.....
.....	3,823	928	2,056	727	112	.....	571,191	405,560	.....	56,479	418	.....
.....	2,504	754	884	724	142	279	568,687	438,008	.....	18,069	465	.....
.....	2,443	595	1,033	600	120	213	536,194	478,996	.....	17,654	455	11,682
.....	.....	.....	.....	684	156	1,859	618,646	544,683	.....	32,279	812	1,508
.....	3,198	762	1,239	1,046	151	1,595	759,104	605,660	.....	36,780	360	2,957
.....	2,130	905	.....	1,103	172	1,346	825,370	594,857	$72,271	33,590	473	2,902
.....	*24,817	3,470	19,871	1,324	152	1,339	701,432	575,582	.....	48,635	426	2,651
.....	*32,475	2,819	27,684	1,616	356	1,866	713,049	538,092	12,772	36,112	.....	2,242
.....	5,401	1,512	1,788	1,782	319	2,510	793,197	276,173	25,320	36,285	.....	2,228
.....	3,763	1,397	334	1,853	179	2,144	765,926	604,274	17,619	36,918	.....	2,056
.....	6,116	1,784	449	2,113	1,770	2,069	804,512	623,173	19,107	38,050	.....	2,453
.....	7,078	1,542	255	2,340	2,941	2,060	817,533	642,020	18,102	37,253	210	2,313
.....	5,532	1,695	133	2,502	1,202	2,072	901,787	715,554	29,479	32,526	4,177	2,234
.....	6,965	2,021	281	2,767	1,896	1,969	973,643	765,512	27,859	36,348	1,528	2,033
.....	4,701	1,396	334	2,423	498	725	951,760	769,977	39,025	27,605	432	2,252
.....	5,566	1,829	411	2,993	333	.....	1,019,434	858,781	42,686	31,241	.....	2,662
.....	6,318	2,412	436	2,977	493	.....	1,163,449	929,931	56,285	33,159	.....	.....
.....	8,040	3,575	238	3,334	843	127	994,021	827,342	10,325	30,856	2,574	.....
.....	12,469	3,378	3,834	3,889	1,368	9,446	1,001,371	815,005	17,543	35,986	2,537	1,310

*Vide notes, p. 230.

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APPENDIX B—CONCLUDED

RECEIPTS—CONCLUDED

IX. Departmental Receipts.—*Continued.*						Receipts from Loans.				Trust Funds.
8. Municipal Industries.—*Continued.*										
meteries.		Manufactures in Workhouse.	Products of Infirmary.	City Store Room.	Sale of School Books.	Total.	Bonds Sold. Par Value.	Premium on Bonds.	Notes Sold.	Deposits.
ots.	All Other.									
00	$4,463	.....	.....	.....	.....	$103,797	$103,797	.....	.....	
99	.....	.....	.....	.....	.....	234,329	200,000	.....	$34,329	
92	.....	.....	.....	.....	.....	750,000	750,000	.....	.....	
74	.....	.....	.....	.....	.....	481,000	481,000	.....	.....	
57	5,830	$41,449	.....	.....	.....	2,321,700	2,321,700	.....	.....	
....	.....	34,133	.....	.....	.....	1,543,673	1,498,200	$5,725	37,748	
49	7,500	29,617	.....	.....	.....	1,291,060	1,274,500	16,560	.....	
96	7,137	65,278	.....	.....	.....	1,303,292	1,289,825	13,467	.....	
28	6,805	74,601	.....	.....	.....	1,482,221	1,121,588	.....	90,633	
30	7,536	92,307	.....	.....	.....	430,955	426,200	.....	4,755	
51	9,484	74,410	.....	.....	.....	410,173	406,500	.....	3,673	
25	10,886	67,538	.....	.....	.....	105,000	87,000	.....	18,000	
80	11,256	101,109	.....	.....	.....	251,808	186,000	235	65,573	
17	10,765	73,836	.....	.....	.....	742,757	728,000	11,157	3,500	
90	9,708	67,088	.....	.....	.....	844,816	835,000	9,816	.....	
16	12,367	83,528	.....	.....	.....	851,556	822,000	25,306	4,250	
04	11,819	93,392	.....	.....	.....	1,077,857	1,025,000	33,427	19,430	
60	12,125	84,840	.....	.....	.....	848,656	842,306	.....	6,350	
09	18,123	81,123	.....	.....	.....	469,145	387,000	8,145	74,000	
10	12,797	*	.....	.....	.....	527,322	464,000	35,022	28,300	
85	20,879	*	.....	.....	.....	446,999	266,000	4,499	176,510	
64	13,314	81,369	.....	.....	.....	1,169,257	944,000	22,657	202,600	
55	14,623	84,309	.....	.....	.....	1,563,745	1,365,000	42,560	156,185	
06	12,907	20,963	.....	.....	$16,560	1,950,701	1,698,000	61,473	191,228	
76	14,603	66,517	.....	$4,070	22,065	1,711,793	1,335,757	45,919	330,117	$7,218
66	14,068	91,798	$487	5,978	22,604	1,127,062	654,000	23,448	449,634	3,130
74	13,514	45,852	1,095	5,511	23,513	1,348,010	1,076,000	37,850	234,160	7,400
16	12,994	46,556	686	5,473	42,204	2,946,540	2,482,000	144,580	319,900	5,961
98	12,711	54,355	846	5,638	30,667	3,390,884	2,330,000	218,216	842,668	518
60	18,205	43,620	679	6,167	30,877	2,305,458	1,627,873	135,555	542,030	1,573
45	18,628	56,366	1,388	6,035	35,299	3,769,503	3,041,756	270,677	457,070	6,629
32	16,533	47,206	1,676	8,372	19,450	2,174,104	1,267,852	99,742	806,510	6,742
94	17,483	28,495	982	9,730	42,087	4,829,033	3,745,000	282,363	802,270	1,821
72	20,087	32,033	1,473	11,256	64,752	4,173,402	3,377,393	16,089	779,920	5,888
15	18,645	35,141	478	139	37,409	2,968,002	2,766,000	50,952	151,050	4,017
77	16,638	34,072	757	14,184	44,862	4,130,771	4,087,868	31,578	30,325	8,886

*Vide notes, p. 230

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APPENDIX C

DISBURSEMENTS

YEAR.*	Population.*	Aggregates.			I. Expenses of General Government.	II. Protection to Life and Property.	III. Health Conservation and Sanitation.		
		Total.*	Expenses.*	Outlays.*			Total.	Expenses.	Outlays.
.....	.....	$11,387	$8,016	$3,371	$3,690	$2,418	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	11,501	11,483	.....	1,168	649	$16	$16	.....
.....	6,071	28,701	12,711	15,730	3,453	959	17	15	.....
.....	7,167	20,047	16,279	3,437	5,207	1,926	40	40	.....
.....	8,263	12,950	11,960	603	1,726	2,173	14	14	.....
.....	9,359	12,872	12,549	.....	2,400	2,295	64	64	.....
.....	10,456	14,955	13,718	53	1,861	3,357	55	55	.....
.....	11,552	12,634	11,938	82	2,367	3,131	73	73	.....
.....	12,648	14,719	10,375	4,344	1,521	2,896	582	582	.....
.....	13,745	17,479	10,421	6,062	906	1,938	493	493	.....
.....	14,841	24,464	13,051	6,938	1,653	2,422	265	265	.....
.....	15,937	25,881	14,691	6,134	1,672	2,430	374	374	.....
.....	17,034	35,205	20,309	5,440	2,268	5,502	890	890	.....
.....	19,714	.....	.....	.....	.....	.....	.....	.....	.....
.....	22,394	48,178	37,236	9,893	4,572	7,716	648	648	.....
.....	25,075	65,227	44,861	22,709	5,424	12,652	403	403	.....
.....	27,755	142,902	122,199	12,147	11,889	22,274	4,745	1,917	$2,828
.....	30,436	247,798	183,819	47,130	15,176	40,763	2,534	2,534	.....
.....	33,116	230,311	124,201	61,581	31,439	23,407	.....	.....	.....
.....	35,796	213,555	125,681	42,703	30,660	24,165	.....	.....	.....
.....	38,477	264,711	162,907	56,788	57,723	25,308	.....	.....	.....
.....	41,157	195,017	128,337	16,079	16,931	25,324	.....	.....	.....
.....	43,838	263,987	158,579	53,185	16,386	27,662	681	541	140
.....	48,756	224,384	140,128	25,101	42,943	28,263	6,877	.....	6,877
.....	53,674	343,574	233,208	45,589	*87,065	29,101	20,853	.....	20,853
.....	58,592	288,386	169,189	22,171	22,538	32,376	20,409	579	19,830
.....	63,510	369,274	282,561	27,324	94,662	74,406	8,451	.....	8,451
.....	68,428	486,569	311,553	98,074	*31,291	89,355	5,151	26	5,125
.....	73,346	614,315	430,050	121,383	76,677	82,167	47,796	.....	47,796
.....	78,264	*889,583	527,599	297,722	99,324	120,122	85,412	2,814	82,598
.....	83,182	1,234,999	647,534	501,398	*107,002	120,722	61,969	3,659	58,310
.....	88,100	1,306,524	863,444	421,065	*254,813	169,239	110,586	3,672	106,914
.....	93,018	1,924,681	1,077,278	735,233	*38,557	183,736	182,397	10,233	172,164

*Vide notes, pp. 254–255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	IV. Highways.			V. Charities and Correction.			VI. Education.		
	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.
.....	$4,000	$1,329	$2,671	$84	$84	.....	$326	$326	.....
.....	.....	.....	.....	.....	.....	.....	700	700	.....
.....	4,363	4,363	.....	1,712	1,712	.....	3,575	3,575	.....
.....	3,695	3,695	.....	242	242	.....	17,378	3,518	$13,860
.....	3,522	3,418	104	.....	.....	.....	8,090	5,077	3,016
.....	3,196	2,981	215	17	17	.....	5,045	4,680	365
.....	2,557	2,557	.....	.....	.....	.....	4,517	4,517	.....
.....	4,714	4,714	.....	10	10	.....	3,201	3,201	.....
.....	665	640	25	.....	.....	.....	5,080	5,080	.....
.....	3,633	525	3,108	.....	.....	.....	5,289	4,490	800
.....	5,527	301	5,226	.....	.....	.....	6,073	5,803	270
.....	6,636	887	5,749	257	257	.....	7,785	6,596	1,189
.....	6,582	648	5,934	226	226	.....	8,605	8,473	132
.....	6,367	927	5,440	1,238	1,238	.....	8,761	8,761	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	13,070	4,318	8,752	1,000	.....	$1,000	19,013	19,013	.....
.....	22,220	3,791	18,429	3,133	1,246	1,885	20,844	20,844	.....
.....	52,494	49,957	2,537	17,606	12,487	5,121	21,696	21,273	423
.....	63,861	49,557	14,304	39,340	38,971	369	68,563	36,402	32,161
.....	17,645	9,185	8,460	48,558	18,178	30,380	64,196	41,455	22,741
.....	49,290	12,810	36,480	16,130	16,130	.....	45,745	40,685	4,060
.....	55,421	8,856	46,565	12,562	12,562	.....	50,625	42,963	7,662
.....	30,867	17,668	13,199	16,853	16,853	.....	43,996	41,116	2,880
.....	84,244	35,329	48,915	15,923	15,923	.....	54,976	50,846	4,130
.....	30,339	12,545	17,794	12,762	12,762	.....	31,513	31,083	430
.....	75,310	51,206	24,104	24,338	24,338	.....	39,772	39,170	602
.....	48,454	46,113	2,341	17,013	17,013	.....	47,207	47,207	.....
.....	35,927	35,927	.....	20,383	20,383	.....	51,687	42,061	9,626
.....	106,613	41,697	64,915	44,481	44,481	.....	81,694	81,069	625
.....	153,636	109,313	44,322	32,835	32,835	.....	101,117	101,117	.....
.....	379,100	200,172	178,928	42,161	42,161	.....	.....	.....	.....
.....	392,882	60,908	331,974	52,355	52,355	.....	289,979	128,688	161,291
.....	252,151	114,054	138,097	56,042	50,042	6,000	336,735	198,722	138,013
.....	821,277	412,480	408,797	97,741	97,741	.....	312,866	226,925	85,941

*Vide notes, pp. 254-255.

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APPENDIX C

DISBURSEMENTS

EAR.*	Population.*	Aggregates.			I. Expenses of General Government.	II. Protection to Life and Property.	III. Health Conservation and Sanitation.		
		Total.*	Expenses.*	Outlays.*			Total.	Expenses.	Outlays.
.....	.....	$11,387	$8,016	$3,371	$3,680	$2,418	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	11,501	11,483	.....	1,168	649	$16	$16	.....
.....	6,071	28,701	12,711	15,730	3,453	959	17	15	.....
.....	7,167	20,047	16,279	3,487	5,207	1,926	40	40	.....
.....	8,263	12,950	11,960	608	1,726	2,173	14	14	.....
.....	9,359	12,872	12,549	.....	2,400	2,295	64	64	.....
.....	10,456	14,955	13,718	53	1,861	3,357	55	55	.....
.....	11,552	12,634	11,938	82	2,367	3,131	73	73	.....
.....	12,648	14,719	10,375	4,344	1,521	2,896	582	582	.....
.....	13,745	17,479	10,421	6,062	908	1,938	493	493	.....
.....	14,841	24,464	13,051	6,938	1,653	2,422	265	265	.....
.....	15,937	25,881	14,601	6,134	1,672	2,430	374	374	.....
.....	17,034	35,205	20,309	5,440	2,268	5,502	890	890	.....
.....	19,714	.....	.....	.....	.....	.....	.....	.....	.....
.....	22,394	48,178	37,236	9,893	4,572	7,716	648	648	.....
.....	25,075	65,227	44,861	22,709	5,424	12,652	402	402	.....
.....	27,755	142,902	123,199	12,147	11,899	22,274	4,745	1,917	$2,828
.....	30,436	247,798	183,819	47,130	15,176	40,763	2,534	2,534	.....
.....	33,116	230,311	124,201	61,581	31,439	23,407	.....	.....	.....
.....	35,796	213,555	125,681	42,703	30,660	24,165	.....	.....	.....
.....	38,477	264,711	162,907	56,788	57,723	25,308	.....	.....	.....
.....	41,157	196,017	128,337	16,079	16,931	25,324	.....	.....	.....
.....	43,838	263,987	158,879	53,185	16,386	27,692	681	541	140
.....	48,756	224,384	140,128	25,101	42,943	28,263	6,877	.....	6,877
.....	53,674	343,574	233,208	45,589	*87,065	29,101	20,883	.....	20,883
.....	58,592	288,386	169,189	22,171	22,538	32,376	20,409	579	19,830
.....	63,510	369,274	282,581	27,324	94,662	74,408	8,451	.....	8,451
.....	68,428	486,569	311,553	98,074	*31,291	89,355	5,151	26	5,125
.....	73,346	614,315	420,050	121,383	76,677	82,167	47,796	.....	47,796
.....	78,264	*889,583	527,509	297,722	99,324	120,122	85,412	2,814	82,598
.....	83,182	1,234,999	547,534	591,398	*107,003	120,722	61,969	3,659	58,310
.....	88,100	1,396,524	863,444	421,065	*254,813	169,239	110,586	3,672	106,914
.....	93,018	1,924,681	1,077,278	735,233	*38,557	182,736	182,307	10,283	172,164

*Vide notes, pp. 254–255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	IV. Highways.			V. Charities and Correction.			VI. Education.		
	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.
.....	$4,000	$1,329	$2,671	$84	$84	.....	$326	$326	.....
.....	.....	.....	.....	.....	.....	.....	700	700	.....
.....	4,363	4,363	.....	1,712	1,712	.....	3,575	3,575	.....
.....	3,695	3,695	.....	242	242	.....	17,378	3,518	$13,860
.....	3,522	3,418	104	.....	.....	.....	8,090	5,077	3,016
.....	3,196	2,981	215	17	17	.....	5,045	4,690	365
.....	2,557	2,557	.....	.....	.....	.....	4,517	4,517	.....
.....	4,714	4,714	.....	10	10	.....	3,201	3,201	.....
.....	665	640	25	.....	.....	.....	5,089	5,089	.....
.....	3,633	525	3,108	.....	.....	.....	5,289	4,489	800
.....	5,527	301	5,226	.....	.....	.....	6,073	5,803	270
.....	6,636	887	5,749	257	257	.....	7,785	6,596	1,189
.....	6,582	648	5,934	226	226	.....	8,605	8,473	132
.....	6,367	927	5,440	1,238	1,238	.....	8,761	8,761	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	13,070	4,318	8,752	1,000	.....	$1,000	19,013	19,013	.....
.....	22,220	3,791	18,429	3,133	1,246	1,885	20,844	20,844	.....
.....	52,494	49,957	2,537	17,608	12,487	5,121	21,696	21,273	423
.....	63,861	49,557	14,304	39,340	38,971	369	68,563	36,402	32,161
.....	17,645	9,185	8,460	48,558	18,178	30,380	64,196	41,455	22,741
.....	49,290	12,810	36,480	16,130	16,130	.....	45,745	40,685	4,060
.....	55,421	8,856	46,565	12,562	12,562	.....	50,625	42,963	7,662
.....	30,867	17,668	13,199	16,853	16,853	.....	43,996	41,116	2,880
.....	84,244	35,329	48,915	15,923	15,923	.....	54,976	50,846	4,130
.....	30,339	12,545	17,794	12,762	12,762	.....	31,513	31,083	430
.....	75,310	51,206	24,104	24,338	24,338	.....	39,772	39,170	602
.....	48,454	46,113	2,341	17,013	17,013	.....	47,207	47,207	.....
.....	35,927	35,927	.....	20,383	20,383	.....	51,667	42,061	9,626
.....	106,613	41,697	64,915	44,481	44,481	.....	81,694	81,069	625
.....	153,636	109,313	44,322	32,835	32,835	.....	101,117	101,117	.....
.....	379,100	200,172	178,928	42,161	42,161	.....	.....	.....	.....
.....	392,882	60,908	331,974	52,355	52,355	.....	289,979	128,688	161,291
.....	252,151	114,054	138,097	56,042	50,042	6,000	336,735	198,722	138,013
.....	821,277	412,480	408,797	97,741	97,741	.....	312,866	226,925	85,941

*Vide notes, pp. 254-255.

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APPENDIX C

DISBURSEMENTS

YEAR.*	Population.*	Aggregates.			I. Expenses of General Government.	II. Protection to Life and Property.	III. Health Conservation and Sanitation.		
		Total.*	Expenses.*	Outlays.*			Total.	Expenses.	Outlays.
.....	.....	$11,387	$8,016	$3,371	$3,680	$2,418	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	11,501	11,483	.....	1,168	649	$16	$16	.....
.....	6,071	28,701	12,711	15,730	3,453	959	17	15	.....
.....	7,167	20,047	16,279	3,487	5,207	1,926	40	40	.....
.....	8,263	12,950	11,960	603	1,726	2,173	14	14	.....
.....	9,359	12,872	12,549	.....	2,400	2,295	64	64	.....
.....	10,456	14,955	13,718	53	1,861	3,357	55	55	.....
.....	11,552	12,634	11,938	82	2,367	3,131	73	73	.....
.....	12,648	14,719	10,375	4,344	1,521	2,896	582	582	.....
.....	13,745	17,479	10,421	6,062	906	1,938	493	493	.....
.....	14,841	24,464	13,051	6,938	1,653	2,422	265	265	.....
.....	15,937	25,881	14,601	6,134	1,672	2,430	374	374	.....
.....	17,034	35,205	20,309	5,440	2,268	5,502	890	890	.....
.....	19,714	.....	.....	.....	.....	.....	.....	.....	.....
.....	22,394	48,178	37,236	9,893	4,572	7,716	648	648	.....
.....	25,075	65,227	44,861	22,709	5,424	12,652	403	403	.....
.....	27,755	142,902	122,199	12,147	11,899	22,274	4,745	1,917	$2,828
.....	30,436	247,796	183,819	47,130	15,176	40,763	2,534	2,534	.....
.....	33,116	230,311	124,201	61,581	31,439	23,407	.....	.....	.....
.....	35,796	213,555	125,681	42,703	30,660	24,165	.....	.....	.....
.....	38,477	264,711	162,907	56,788	57,723	25,308	.....	.....	.....
.....	41,157	195,017	128,337	16,079	16,931	25,324	.....	.....	.....
.....	43,838	263,987	158,579	53,185	16,386	27,682	681	541	140
.....	48,756	224,384	140,128	25,101	42,943	28,263	6,877	.....	6,877
.....	53,674	343,574	233,208	45,589	*87,065	29,101	20,883	.....	20,883
.....	58,592	288,386	169,189	22,171	22,538	32,376	20,409	579	19,830
.....	63,510	389,274	282,581	27,324	94,662	74,406	8,451	.....	8,451
.....	68,428	486,569	311,553	98,074	*31,291	89,355	5,151	26	5,125
.....	73,346	614,315	430,050	121,383	76,677	82,167	47,796	.....	47,796
.....	78,264	*889,583	527,599	297,722	99,324	120,122	85,412	2,814	82,598
.....	83,182	1,234,999	547,534	501,398	*107,002	120,722	61,969	3,659	58,310
.....	88,100	1,306,524	863,444	421,065	*254,813	169,239	110,586	3,672	106,914
.....	93,018	1,924,681	1,077,278	735,233	*38,557	182,736	183,397	10,233	172,164

*Vide notes, pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	IV. Highways.			V. Charities and Correction.			VI. Education.		
	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.	Total.	Expenses.	Outlays.
.....	$4,000	$1,329	$2,671	$84	$84	.....	$326	$326	.....
.....	.....	.....	.....	.....	.....	.....	700	700	.....
.....	4,363	4,363	.....	1,712	1,712	.....	3,575	3,575	.....
.....	3,695	3,695	.....	242	242	.....	17,378	3,518	$13,860
.....	3,522	3,418	104	.....	.....	.....	8,090	5,077	3,016
.....	3,196	2,981	215	17	17	.....	5,045	4,680	365
.....	2,557	2,557	.....	.....	.....	.....	4,517	4,517	.....
.....	4,714	4,714	.....	10	10	.....	3,201	3,201	.....
.....	665	640	25	.....	.....	.....	5,089	5,089	.....
.....	3,633	525	3,108	.....	.....	.....	5,289	4,489	800
.....	5,527	301	5,226	.....	.....	.....	6,073	5,803	270
.....	6,636	887	5,749	257	257	.....	7,785	6,596	1,189
.....	6,582	648	5,934	226	226	.....	8,605	8,473	132
.....	6,367	927	5,440	1,238	1,238	.....	8,761	8,761	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	13,070	4,318	8,752	1,000	.....	$1,000	19,013	19,013	.....
.....	22,220	3,791	18,429	3,133	1,246	1,885	20,844	20,844	.....
.....	52,494	49,957	2,537	17,608	12,487	5,121	21,696	21,273	423
.....	63,861	49,557	14,304	39,340	38,971	369	68,563	36,402	32,161
.....	17,645	9,185	8,460	48,558	18,178	30,380	64,196	41,455	22,741
.....	49,290	12,810	36,480	16,130	16,130	.....	45,745	40,685	4,060
.....	55,421	8,856	46,565	12,562	12,562	.....	50,625	42,963	7,662
.....	30,867	17,668	13,199	16,853	16,853	.....	43,996	41,116	2,880
.....	84,244	35,329	48,915	15,923	15,923	.....	54,976	50,846	4,130
.....	30,339	12,545	17,794	12,762	12,762	.....	31,513	31,083	430
.....	75,310	51,206	24,104	24,338	24,338	.....	39,772	30,170	602
.....	48,454	46,113	2,341	17,013	17,013	.....	47,207	47,207	.....
.....	35,927	35,927	.....	20,383	20,383	.....	51,687	42,061	9,626
.....	106,613	41,697	64,915	44,481	44,481	.....	81,604	81,069	535
.....	153,636	109,313	44,322	32,835	32,835	.....	101,117	101,117	.....
.....	379,100	200,172	178,928	42,161	42,161	.....	.....	.....	.....
.....	392,882	60,908	331,974	52,355	52,355	.....	289,979	128,688	161,291
.....	252,151	114,054	138,097	56,042	50,042	6,000	336,735	198,722	138,013
.....	821,277	412,480	408,797	97,741	97,741	.....	312,866	226,925	85,941

*Vide notes, pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	VI. Education.—*Continued.*			VII. Recreation: Parks.	VIII. Municipal Industries.			IX. Interest.	X. Public Indebtedness.
	Youth of School Age.	Average Daily Attendance.	Number of Teachers Employed.		Total.	Expenses.	Outlays.		
	2,132	240	8		$879	$179	$700		16,718
								18	1,726
			10		2,699	829	1,870	260	3,238
					856	611	245	281	5,077
					392	369	23	387	1,282
	2,578				716	716		323	2,846
	2,950				573	520	53	1,184	2,070
	3,177				695	638	57	614	2,091
	3,455	936	15		798	362	436		477
	3,956	1,120	18		1,544	978	566	996	10,381
	4,302	1,289	20		971	971		4,475	1,230
	4,773	1,259	22	$68	868	868		5,056	
	5,042	1,440	25		723	723		9,456	
	6,742	1,650	32						
			39	23	1,087	969	118	1,029	8,576
	8,426		41		2,896	501	2,395	1,657	5,451
	12,076	3,061	44	*1,759	1,881	1,802	79	8,556	13,689
	12,947	3,311	60	296	416	416		16,849	45,419
	12,998	3,410	68		537	537		44,529	3,245
	13,121	3,714	73	1,803	1,231	1,231		45,171	14,972
	12,984	3,817	79	1,407	16,651	14,090	2,561	45,016	8,875
	13,370	3,930	82	384	10,111	10,111		50,551	142,714
	14,309		83	401	11,471	11,471		52,223	10,438
	14,625	3,921	83		12,532	12,532		59,155	152,172
	15,477		83		2,328	2,328		64,777	327,782
	16,577		86	40	3,323	3,323		97,026	182,899
	17,325		92	539	24,387	15,140	9,247	59,369	282,443
	18,023	4,890	98		50,504	23,095	27,409	76,942	125,097
	18,607	5,334	115	29,265	27,941	27,941		63,932	59,361
	20,775	5,520	123		94,661	61,933	32,728	67,608	116,955
	23,906	6,623	157		114,023	74,200	39,823	99,613	125,172
	25,623	7,222	164		104,943	72,902	32,041	119,021	46,255
	29,517	7,765	188	1,564	175,373	108,042	67,331	112,170	42,000

*Vide notes, pp. 254–255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

	Population.*	Aggregates.			I. General Government.						
		Total.	Expenses.	Outlays.	Total.	Council and Legislative Offices.	Mayor and Executive Offices.	Law Office.	Finance Offices.	Elections.	Public Printing.
...	99,730	$1,526,007	$771,353	$605,584	$121,521	.....	.....	.....	.....	.....	.....
...	106,442	2,006,932	1,139,638	703,092	280,941	.....	.....	.....	.....	.....	.....
...	.....	1,546,626	1,098,590	273,661	574,237	.....	.....	.....	.....	.....	.....
...	113,155	3,428,171	1,894,393	1,306,607	879,216	.....	.....	.....	.....	.....	.....
...	119,867	2,815,124	1,372,817	1,135,633	127,634	.....	.....	.....	.....	.....	.....
...	126,580	3,267,341	1,584,582	1,206,473	100,542	.....	.....	.....	.....	.....	$19,266
...	133,292	2,847,399	1,413,725	1,094,918	147,273	.....	.....	.....	.....	.....	.....
...	140,004	2,339,179	1,306,435	663,140	142,279	.....	.....	.....	.....	.....	.....
...	146,717	3,585,429	1,417,615	1,769,008	135,985	.....	.....	.....	.....	.....	.....
...	153,429	1,913,968	1,162,261	355,758	127,333	.....	.....	.....	.....	.....	.....
...	160,142	1,817,508	1,234,511	202,983	128,018	.....	.....	.....	.....	.....	.....
...	170,263	2,025,163	1,285,679	346,094	137,017	.....	.....	.....	.....	.....	.....
...	180,384	2,626,654	1,346,645	908,914	128,203	.....	.....	.....	.....	.....	.....
...	190,505	2,833,526	1,416,375	1,035,279	151,850	.....	.....	.....	.....	.....	.....
...	200,626	3,190,017	1,531,377	1,271,322	147,448	.....	.....	.....	.....	.....	.....
...	210,747	3,243,845	1,628,127	1,218,385	154,870	.....	.....	.....	.....	.....	.....
...	220,869	3,089,236	1,668,824	982,219	168,549	.....	.....	.....	.....	.....	.....
...	230,990	3,486,008	1,873,151	1,165,427	183,248	.....	.....	.....	.....	.....	.....
...	241,111	3,746,449	2,034,936	1,264,651	197,503	.....	.....	.....	.....	.....	.....
...	251,232	3,594,297	2,259,361	887,824	245,000	.....	.....	.....	.....	.....	.....
...	261,353	*3,527,243	1,743,259	1,373,091	293,181	.....	.....	.....	.....	.....	.....
...	273,394	4,723,552	2,467,463	1,703,897	263,079	.....	.....	.....	.....	.....	*12,354
...	285,436	4,208,907	2,676,113	1,112,507	317,705	.....	.....	.....	.....	.....	*15,062
...	297,477	4,980,636	2,727,597	1,797,613	214,392	$25,204	$38,569	$13,873	$42,334	$14,459	9,454
...	309,519	6,089,921	3,177,020	2,437,116	279,829	19,186	41,911	9,748	91,492	16,742	4,768
...	321,560	5,647,303	3,287,865	1,878,370	288,752	19,256	41,451	9,981	99,312	17,805	4,248
...	333,602	5,061,543	3,250,976	1,375,432	283,339	21,722	41,043	10,015	82,825	19,826	8,176
...	345,643	6,654,801	3,417,513	2,754,569	300,295	21,787	41,282	10,603	92,813	19,555	11,303
...	357,685	6,629,536	3,500,949	2,637,235	302,328	19,761	46,290	11,215	91,651	20,856	13,563
...	369,726	7,236,068	3,806,067	2,853,832	310,829	19,865	47,998	11,705	95,165	22,191	9,481
...	381,768	7,729,030	4,068,786	3,043,950	317,644	18,859	44,749	11,824	107,124	22,151	8,337
...	392,400	8,410,161	4,489,579	3,269,911	361,876	18,323	52,071	14,020	109,086	22,346	10,226
...	403,032	9,692,059	4,782,846	4,192,207	420,601	18,206	48,353	12,929	197,605	23,693	11,449
...	414,960	10,179,970	5,198,239	4,157,771	459,232	30,717	49,805	18,504	190,007	23,487	22,517
...	425,632	10,287,336	5,486,546	3,935,490	509,062	41,119	38,520	26,883	*184,986	*39,783	43,265
...	436,314	11,423,016	6,016,667	4,437,338	579,714	57,323	43,079	34,780	*209,914	*32,583	34,905

Vide notes, pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	I. General Government.—*Continued.*					II. Protection to Life and Property.		
	Public Buildings and Grounds.		Courts.	Costs of Court and Judgments.	Miscellaneous Expense.	Aggregates.		
	Expenses.	Outlays.				Total.	Expenses.	Outlays.
.....	.....	.....	$8,451	.....	$113,070	$174,467	.....	.....
.....	.....	.....	12,562	.....	268,379	228,278	.....	.....
.....	.....	.....	24,536	*$444,057	105,344	224,468	.....	.....
.....	.....	.....	25,831	*733,011	120,374	386,670	$374,974	$11,696
.....	.....	.....	18,716	.....	106,918	324,832	301,107	23,725
.....	$2,500	$80,897	18,522	1,883	21,481	345,926	314,656	30,270
.....	.....	56,872	9,096	.....	138,177	302,771	289,050	13,721
.....	.....	.....	11,275	.....	131,984	301,907	297,237	4,670
.....	.....	.....	9,382	3,409	123,194	306,104	289,170	15,934
.....	7,405	.....	9,061	4,303	106,564	297,679	292,793	4,886
.....	7,917	.....	10,347	2,473	107,281	301,258	295,728	5,480
.....	7,114	.....	10,918	2,439	116,546	284,453	281,273	3,180
.....	11,546	359	12,837	1,253	102,208	326,137	306,611	19,526
.....	12,173	.....	12,410	3,859	123,406	330,467	327,509	2,958
.....	1,365	.....	11,027	.....	134,044	403,115	380,899	22,216
.....	.....	2,608	12,804	1,275	137,211	422,632	397,841	24,791
.....	.....	.....	12,328	1,385	153,829	419,164	388,676	30,488
.....	.....	.....	19,919	1,400	154,795	465,819	463,319	2,500
.....	.....	.....	14,089	14,401	169,774	495,763	495,763	.....
.....	.....	.....	*30,293	.....	203,420	584,626	563,785	20,841
.....	.....	.....	24,572	.....	267,465	591,575	583,075	8,500
.....	.....	.....	23,879	.....	230,745	601,675	581,480	20,195
.....	.....	.....	25,005	.....	275,851	653,199	622,975	30,224
.....	.....	.....	55,438	.....	15,062	742,364	683,368	58,996
.....	56,654	.....	35,967	1,555	1,905	1,057,624	874,578	183,046
.....	56,806	323	34,360	1,452	3,758	857,546	852,215	35,331
.....	55,788	494	34,588	3,898	5,458	878,423	850,882	27,541
.....	57,232	.....	36,509	3,025	6,186	890,902	883,392	7,510
.....	53,932	.....	34,679	4,822	5,613	909,735	896,462	13,273
.....	55,113	.....	35,396	13,628	287	939,979	932,471	7,508
.....	50,817	.....	47,688	6,095	.....	998,146	962,195	35,951
.....	62,949	1,515	42,280	7,772	22,803	1,157,354	1,068,285	87,069
.....	59,150	405,437	41,718	6,733	765	1,085,149	1,064,226	20,923
.....	65,341	229,596	42,415	14,255	2,184	1,203,223	1,196,942	4,281
.....	64,741	80,029	34,669	13,998	21,138	1,249,641	1,230,581	19,060
.....	62,338	282,818	37,186	19,972	47,634	1,344,235	1,324,138	20,097

*Vide notes, pp. 284 200.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	Protection to Life and Property.—*Continued.*						III. Health Conservation and Sanitation.		
	Police.		Armory.	Fire.		Inspection Department.	Aggregates.		
	Expenses.	Outlays.		Expenses.	Outlays.		Total.	Expenses.	Outlays.
.....	$77,287	.....	.....	$97,180	.....	.....	$86,496	$8,774	$77,722
.....	99,715	.....	.....	128,563	.....	.....	173,825	56,116	117,709
.....	91,437	.....	.....	133,031	.....	.....	39,925	.....	39,925
.....	158,324	.....	.....	216,650	11,696	.....	140,744	15,720	125,024
.....	162,840	.....	.....	138,267	23,725	.....	493,471	80,670	412,801
.....	160,022	.....	.....	140,706	30,271	.....	36,604	19,560	17,044
.....	152,896	.....	.....	136,154	13,721	.....	101,645	16,168	85,168
.....	145,881	.....	.....	151,356	4,670	.....	57,689	21,426	36,263
.....	145,135	.....	.....	144,035	15,934	.....	46,030	36,617	9,413
.....	131,712	.....	*14,175	146,906	4,886	.....	32,288	26,181	6,107
.....	138,340	$971	13,520	143,917	4,509	.....	30,602	21,313	9,289
.....	134,002	.....	1,738	145,533	3,180	.....	58,526	42,363	16,163
.....	148,589	13,412	3,335	154,687	6,114	.....	81,189	46,716	34,473
.....	163,401	.....	150	163,958	2,958	.....	173,546	52,114	121,432
.....	199,765	3,483	.....	181,134	18,733	.....	141,479	35,359	106,120
.....	194,186	.....	.....	203,655	24,791	.....	119,032	33,917	85,015
.....	193,757	.....	.....	194,919	30,488	.....	158,497	44,301	114,196
.....	239,552	2,500	.....	221,300	.....	.....	219,378	62,293	157,085
.....	256,286	.....	.....	239,477	.....	.....	189,617	79,377	110,240
.....	302,196	8,428	.....	261,589	12,413	.....	262,084	96,883	165,201
.....	316,685	.....	.....	266,190	8,500	.....	390,084	89,788	300,510
.....	294,628	20,195	.....	236,852	.....	.....	547,128	90,052	457,076
.....	312,497	19,332	.....	310,478	10,892	.....	357,789	90,797	266,992
.....	336,965	35,688	.....	346,403	23,308	.....	416,451	99,179	317,272
.....	379,106	113,590	1,527	492,637	69,456	.....	356,458	104,247	252,211
.....	372,398	15,797	2,660	474,356	19,534	1,471	243,983	113,796	130,187
.....	392,217	25,240	3,420	452,164	2,301	3,081	332,894	130,991	201,903
.....	414,400	910	3,420	461,550	6,600	2,762	584,123	124,086	460,037
.....	420,553	507	3,420	468,268	12,766	4,221	804,947	153,149	651,798
.....	424,455	389	3,420	502,553	7,119	2,043	938,607	232,754	705,853
.....	438,935	15,497	1,515	521,562	20,454	183	876,309	208,825	667,484
.....	462,141	59,625	1,463	604,361	29,444	320	1,125,013	378,658	746,355
.....	426,104	19,396	.....	636,932	1,527	1,190	1,517,122	459,288	1,057,834
.....	526,710	2,634	.....	670,235	1,647	1,997	1,789,818	371,853	1,417,965
.....	576,324	520	.....	637,760	18,540	16,488	1,443,945	329,645	1,114,300
.....	631,722	11,708	.....	654,551	8,389	7,865	1,468,736	452,180	1,016,556

*Vide notes pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	III. Health Conservation and Sanitation.—*Continued.*						
	Health Department.	Night Soil.	Sewers and Sewage Disposal.		Street Cleaning.	Garbage Collection and Disposal.	Sewer and Water Connections.
			Expenses.	Outlays.			
.....	$1,057	.....	$7,717	$77,722	.....	.....	.....
.....	8,553	.....	.....	117,709	$47,563	.....	.....
.....	*	.....	.....	39,925	.....	.....	.....
.....	*15,720	.....	.....	125,024	.....	.....	.....
.....	25,036	.....	55,634	412,801	.....	.....	.....
.....	15,549	.....	.....	17,044	28	$3,987	.....
.....	16,168	.....	.....	85,477	.....	.....	.....
.....	14,106	$7,320	.....	36,263	.....	.....	.....
.....	12,414	7,628	.....	9,413	16,575	.....	.....
.....	12,037	5,978	.....	6,107	8,166	.....	.....
.....	7,537	*	.....	9,289	13,326	450	.....
.....	14,140	.....	.....	16,163	26,319	1,904	.....
.....	17,832	.....	.....	34,473	26,387	2,497	.....
.....	16,444	.....	.....	121,432	29,467	6,203	.....
.....	16,672	.....	.....	106,120	10,948	7,739	.....
.....	14,509	.....	.....	85,015	12,663	6,845	.....
.....	20,950	.....	.....	114,196	17,094	6,257	.....
.....	11,477	25,537	.....	157,085	23,069	2,210	.....
.....	29,114	23,624	.....	110,240	24,558	2,080	.....
.....	34,461	27,000	.....	165,201	33,342	2,080	.....
.....	34,518	27,000	.....	300,510	26,190	2,080	.....
.....	29,110	27,450	.....	457,076	32,252	1,240	.....
.....	38,875	30,712	.....	266,992	19,931	1,279	.....
.....	34,403	33,590	.....	317,272	29,477	1,709	.....
.....	35,923	24,879	12,408	251,301	29,409	1,628	$910
.....	37,160	21,328	22,476	127,785	31,271	1,561	2,402
.....	37,826	27,085	29,887	199,904	33,925	2,268	1,999
.....	38,061	20,618	22,148	459,539	41,559	1,700	498
.....	40,397	17,287	32,259	647,036	61,751	1,455	4,762
.....	62,910	14,387	27,260	697,419	54,967	73,230	8,434
.....	37,945	19,279	32,189	655,842	50,012	69,400	11,642
.....	*124,105	19,393	50,134	709,624	125,980	83,113	12,664
.....	202,956	17,638	50,129	1,082,871	119,165	60,400	24,963
.....	75,299	22,024	52,503	1,404,730	150,121	71,846	13,235
.....	52,355	24,994	41,130	1,039,689	147,785	68,398	14,611
.....	87,691	19,250	38,435	830,737	191,896	*278,850	27,177

*Vide notes, pp. [illegible]

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	IV. Highways.									
	Aggregates.			General Administration.	General Street Expenditures.		Paving.	Sidewalk Construction.	Street Lighting.	Street Signs.
	Total.	Expenses.	Outlays.		Expenses.	Outlays.				
	$519,730	*$212,715	$307,015	$8,398	$71,763	$42,027	$264,988	.....	$59,414	.....
	663,705	262,887	400,818	11,678	45,851	37,834	280,938	.....	98,613	.....
	464,612	230,876	233,736	.....	67,533	233,736	.....	.....	73,657	.....
	*836,446	333,995	502,451	21,318	93,578	469,877	.....	.....	112,524	.....
	814,253	257,716	556,537	.....	92,256	7,481	525,758	.....	109,834	.....
	*1,376,829	342,992	1,033,837	29,143	93,626	405,019	.....	$17,601	122,193	.....
	*1,008,955	345,212	663,743	.....	99,074	320,458	.....	.....	125,475	.....
	738,214	281,127	457,087	.....	65,899	98,325	.....	.....	94,907	.....
	1,928,762	327,887	1,600,875	.....	117,801	*1,038,012	.....	.....	131,303	.....
	370,339	182,220	185,119	.....	55,844	5,591	.....	.....	86,211	.....
	210,500	196,050	14,450	.....	47,089	12,369	.....	.....	90,385	.....
	286,044	228,243	57,801	.....	44,933	38,869	18,170	.....	91,781	.....
	675,599	227,732	447,867	13,235	48,238	.....	441,495	.....	100,162	.....
	589,167	233,005	356,162	.....	54,350	7,345	275,441	.....	108,010	.....
	506,381	269,911	236,470	.....	76,576	10,229	216,617	.....	109,927	.....
	612,151	270,199	341,952	.....	94,754	40,310	152,350	.....	111,707	.....
	829,134	257,267	571,867	.....	63,382	65,863	132,713	.....	123,619	.....
	915,228	267,337	647,891	.....	78,671	65,411	236,349	.....	126,738	.....
	*878,078	304,884	573,194	.....	78,332	63,250	252,117	.....	159,780	.....
	638,928	355,142	238,786	.....	101,919	73,300	167,845	.....	164,575	.....
	870,820	339,858	530,962	.....	104,332	63,325	467,637	.....	156,018	.....
	979,254	359,639	619,615	.....	166,035	53,109	553,183	.....	121,586	.....
	777,157	433,972	343,185	.....	104,505	31,767	217,202	2,388	*241,182	.....
	1,339,813	420,647	919,166	.....	109,556	25,846	862,219	.....	199,723	.....
	1,288,908	484,863	939,529	56,229	148,891	390,259	482,847	.....	200,257	.....
	1,281,533	477,488	804,045	60,046	94,945	45,745	670,157	885	229,289	.....
	856,931	496,216	360,715	63,083	91,538	49,720	217,845	3,807	225,618	.....
	1,411,078	497,855	913,225	62,334	88,338	31,534	262,722	1,669	235,326	$4,517
	1,211,726	478,029	733,697	65,948	93,350	75,043	523,018	1,315	210,432	.....
	1,439,154	524,016	915,138	70,001	84,348	49,117	*606,160	22	230,929	500
	1,355,645	541,080	814,565	60,012	90,916	53,081	*433,610	1,559	238,618	.....
	1,359,249	598,197	761,052	78,178	116,622	17,624	*530,831	4,307	259,228	.....
	1,442,681	540,675	902,006	83,208	87,130	90,625	607,384	13,588	239,040	948
	1,389,565	597,143	791,422	83,998	117,332	15,641	637,784	19,713	271,648	7,218
	1,667,207	657,687	1,009,520	86,256	124,525	53,711	804,408	12,493	*286,531	1,850
	2,273,200	708,205	1,564,995	90,429	161,186	185,523	986,658	25,211	266,208	7,691

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	IV. Highways.—*Continued.*					V. Charities and Correction.			
	River and Harbor.		Bridges and Viaducts.		Abolition of Grade Crossings.	Aggregates.			General Administration.
	Expenses.	Outlays.	Expenses.	Outlays.		Total.	Expenses.	Outlays.	
.....	$26,046	.....	$26,966	.....	.....	$35,200	$31,972	$3,228	.....
.....	6,572	.....	77,118	$82,046	.....	67,052	67,052	.....	.....
.....	44,652	.....	21,907	.....	.....	40,178	40,178	.....	.....
.....	14,745	.....	67,522	32,574	.....	91,815	91,815	.....	.....
.....	20,749	$23,289	24,188	.....	.....	80,573	80,573	.....	.....
.....	22,144	5,326	24,816	623,492	.....	135,293	135,293	.....	.....
.....	96,478	108,457	24,185	343,285	.....	183,311	136,199	46,112	.....
.....	86,636	1,754	33,685	358,762	.....	116,999	92,999	14,000	.....
.....	40,425	.....	38,358	562,863	.....	117,780	110,889	6,891	.....
.....	13,161	.....	30,004	179,528	.....	137,777	133,352	4,425	.....
.....	20,728	.....	37,848	2,081	.....	157,789	152,021	5,768	.....
.....	56,767	.....	34,762	762	.....	60,674	60,674	.....	.....
.....	31,975	.....	34,122	6,372	.....	85,382	74,908	6,474	.....
.....	34,047	.....	36,598	73,376	.....	99,774	94,620	5,154	.....
.....	38,544	.....	44,864	9,624	.....	71,641	69,591	2,050	.....
.....	26,001	.....	37,737	149,292	.....	116,880	85,504	31,376	.....
.....	24,195	.....	46,071	373,291	.....	109,978	90,746	19,232	.....
.....	15,710	.....	46,218	346,131	.....	143,074	135,193	7,881	.....
.....	23,725	.....	43,047	257,827	.....	193,033	149,281	33,752	.....
.....	33,544	.....	55,104	42,641	.....	125,449	102,387	23,062	.....
.....	26,628	.....	52,890	.....	.....	217,052	217,052	.....	.....
.....	16,179	.....	55,839	13,323	.....	135,752	135,752	.....	.....
.....	25,168	.....	63,117	91,768	.....	206,494	176,599	29,895	.....
.....	24,758	.....	86,610	31,101	.....	193,751	181,417	12,234	$1,254
.....	18,903	.....	60,783	116,423	.....	185,234	185,234	.....	1,455
.....	25,057	.....	68,151	87,258	.....	178,706	178,706	.....	1,462
.....	41,485	30,133	74,492	59,212	.....	149,883	149,083	800	1,268
.....	27,178	459,600	84,677	153,283	.....	186,691	162,486	24,205	1,226
.....	27,311	7,254	80,988	127,067	.....	194,065	160,417	33,648	1,185
.....	31,133	143,723	93,322	129,899	.....	200,542	186,155	14,387	1,443
.....	25,624	212,870	104,486	125,869	.....	193,149	184,406	8,743	1,535
.....	33,563	96,921	89,468	119,382	$3,125	207,461	201,867	5,594	1,502
.....	27,420	86,870	103,877	102,591	.....	207,981	202,401	5,580	1,420
.....	26,726	54,939	97,430	53,854	2,278	248,062	218,658	29,404	700
.....	43,616	58,430	116,759	24,844	58,775	434,890	209,226	105,164	.....
.....	58,744	133,925	131,658	106,627	119,800	356,991	256,709	100,222	.....

*Vide notes, pp. 254-258

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V. Charities and Correction.—*Continued.*

YEAR.	House of Correction.		Infirmary.		Out-door Relief.	City Farm School.	Indigent Blind.	Employment Bureau.
	Expenses.	Outlays.	Expenses.	Outlays.				
.....	.....	$3,228	$18,406	.....	$13,566	.....	.....	.....
.....	$33,276	.....	20,245	.....	13,531	.....	.....	.....
.....	20,204	.....	11,996	.....	7,978	.....	.....	.....
.....	51,479	.....	21,475	.....	18,843	.....	.....	.....
.....	40,968	.....	14,520	.....	25,085	.....	.....	.....
.....	58,884	.....	16,282	.....	60,127	.....	.....	.....
.....	54,284	.....	24,068	$46,112	57,847	.....	.....	.....
.....	27,380	.....	26,505	14,000	39,114	.....	.....	.....
.....	52,734	5,400	25,799	1,491	32,356	.....	.....	.....
.....	*92,905	4,425	17,836	.....	22,611	.....	.....	.....
.....	*113,134	.....	19,067	5,768	19,800	.....	.....	.....
.....	29,821	.....	23,894	.....	15,959	.....	.....	.....
.....	35,017	6,474	24,165	.....	15,626	.....	.....	.....
.....	47,609	2,093	25,303	3,061	21,708	.....	.....	.....
.....	14,866	.....	31,233	2,050	23,492	.....	.....	.....
.....	30,391	3,013	29,696	28,363	[25,417	.....	.....	.....
.....	35,298	3,724	55,448	15,508	*	.....	.....	.....
.....	55,407	.....	54,985	7,881	24,801	.....	.....	.....
.....	58,638	.....	64,633	33,752	26,010	.....	.....	.....
.....	23,572	.....	50,118	23,062	28,697	.....	.....	.....
.....	*123,781	.....	66,598	.....	26,673	.....	.....	.....
.....	33,691	.....	77,777	.....	24,284	.....	.....	.....
.....	81,580	2,445	64,508	27,450	30,511	.....	.....	.....
.....	52,030	375	90,436	11,859	37,697	.....	.....	.....
.....	42,956	.....	88,918	.....	50,111	.....	.....	$1,800
.....	46,783	.....	96,910	.....	31,751	.....	.....	1,800
.....	25,672	.....	96,609	800	23,734	.....	.....	1,800
.....	23,980	.....	105,677	24,205	29,803	.....	.....	1,800
.....	39,068	3,000	95,620	30,648	22,724	.....	.....	1,800
.....	43,702	244	109,204	14,143	30,006	.....	.....	1,800
.....	54,332	.....	105,772	8,743	20,917	.....	.....	1,800
.....	49,780	.....	122,794	5,594	19,871	.....	$6,100	1,800
.....	44,560	.....	127,401	344	18,995	*$5,236	9,500	525
.....	48,783	.....	138,075	3,265	20,150	*26,139	10,950	.....
.....	62,611	.....	163,606	118,348	31,434	*46,816	11,575	.....
.....	63,975	.....	167,417	47,387	25,377	*52,835	.....	.....

**Vide* notes, pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

YEAR.	VI. Education.								
	Aggregates.			Schools.					
	Total.	Expenses.	Outlays.	Total.	General Expenses.	Teachers' Salaries.	Land.	Buildings.	Furniture and Fixtures.
.....	$203,547	$172,963	$30,584	$193,416	$37,514	$130,506	$300	$24,438	$658
.....	217,452	183,044	24,408	207,644	47,067	135,615	5,130	15,295	4,539
.....	242,024	227,502	14,522	229,032	50,671	164,756	2,042	7,617	3,946
.....	394,415	261,757	132,658	382,863	59,194	190,200	49,933	78,616	4,920
.....	369,953	325,528	44,425	354,771	77,939	228,149	4,302	36,146	8,237
.....	419,469	336,299	83,170	400,352	74,228	241,968	17,030	58,077	9,049
.....	399,045	324,878	74,167	382,800	52,269	256,320	15,542	50,505	8,164
.....	389,995	319,612	70,383	383,499	53,906	258,321	22,210	46,698	2,364
.....	390,486	333,439	57,047	390,807	66,876	251,051	13,584	41,877	7,419
.....	385,622	346,707	38,915	373,314	62,626	270,778	1,410	32,716	5,774
.....	447,523	378,595	68,928	429,695	70,469	291,998	6,774	55,987	4,467
.....	460,599	401,623	58,976	439,290	80,932	305,674	39,362	9,881	5,431
.....	505,289	395,169	110,120	489,701	64,892	315,707	34,199	72,966	1,937
.....	688,703	439,339	249,364	670,051	83,855	331,163	17,768	225,168	12,097
.....	707,174	487,626	219,548	688,117	92,609	364,194	13,324	202,044	15,846
.....	538,715	512,248	26,467	518,324	100,825	389,429	6,350	15,164	6,556
.....	608,649	551,844	56,805	586,697	115,190	416,069	25,468	27,716	2,254
.....	812,504	619,770	192,734	793,150	137,969	437,477	20,208	170,065	27,431
.....	673,130	634,325	38,805	650,664	133,007	473,343	19,581	14,892	9,841
.....	*36,076	.....	.....	.....	.....	.....	.....	.....	.....
.....	1,045,843	763,721	282,122	1,022,294	176,722	537,132	22,610	254,515	31,315
.....	953,053	767,882	185,171	924,828	176,797	556,714	.....	177,528	13,789
.....	943,401	792,939	150,462	906,285	164,905	583,790	20,890	120,630	16,070
.....	1,047,137	884,399	162,738	1,003,306	192,057	634,534	22,100	129,184	25,430
.....	1,152,057	979,427	172,630	1,103,140	209,098	712,998	26,074	137,492	17,487
.....	1,136,513	984,020	152,793	1,083,543	179,931	749,995	.....	142,966	10,681
.....	1,177,640	1,053,525	124,115	1,102,273	206,790	779,178	2,001	103,882	10,422
.....	1,286,463	1,131,063	155,400	1,199,281	201,871	839,197	42,301	99,675	16,234
.....	1,292,109	1,136,115	155,994	1,220,738	199,544	863,077	40,689	112,200	14,228
.....	1,611,329	1,266,809	344,520	1,492,530	225,209	934,597	8,691	314,149	9,893
.....	1,954,707	1,381,863	572,844	1,824,490	282,810	995,404	83,724	443,234	29,238
.....	1,923,254	1,584,533	338,721	1,802,577	313,612	1,147,981	6,700	204,656	29,628
.....	2,464,963	1,798,107	666,856	2,282,834	457,015	1,206,070	94,128	491,461	34,102
.....	2,610,785	1,951,320	709,465	2,374,194	392,325	1,307,306	55,614	589,603	29,756
.....	2,804,250	1,958,818	845,441	2,226,653	423,750	1,305,626	25,110	372,063	20,093

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YEAR.	VI. Education.—*Continued.*								
	Schools.—*Continued*			Libraries.					
	Youth of School Age.	Average Daily Attendance.	No. of Teachers Employed.	Total.	Salaries.	All Other Expense.	Books.	Land and Buildings.	Volumes in Library.
.....	31,500	8,174	188	$10,131	$2,500	$1,785	$5,846	.....	10,311
.....	34,437	8,581	208	9,808	3,999	1,826	3,983	.....	12,756
.....	36,652	9,676	235	12,992	4,619	3,510	4,863	.....	16,435
.....	41,018	11,196	289	11,552	4,642	2,801	4,109	.....	20,415
.....	44,363	13,147	319	15,182	6,057	5,148	3,977	.....	18,834
.....	43,342	14,067	326	19,117	6,599	4,455	8,063	.....	22,769
.....	45,429	15,044	346	16,245	5,493	2,632	8,120	.....	25,117
.....	45,364	15,714	362	6,496	3,364	1,657	1,475	.....	25,467
.....	46,239	15,694	389	9,679	5,752	2,341	1,586	.....	26,490
.....	49,256	16,866	415	12,308	6,395	1,124	4,789	.....	29,155
.....	52,401	17,016	448	17,828	7,270	4,391	6,167	.....	33,019
.....	58,926	18,696	473	21,319	7,719	3,867	9,733	.....	36,563
.....	56,411	19,969	502	15,588	8,070	4,563	2,955	.....	39,092
.....	58,112	21,591	522	18,652	8,209	4,015	6,428	.....	43,153
.....	59,313	22,578	558	19,057	9,484	5,493	4,080	.....	45,905
.....	61,654	23,595	576	20,391	10,369	5,269	4,953	.....	48,837
.....	64,550	23,932	621	21,952	11,790	6,041	3,621	.....	51,397
.....	63,193	24,868	651	19,354	11,185	5,708	2,461	.....	54,430
.....	71,912	26,049	685	22,466	10,356	7,778	4,332	.....	57,370
.....	76,152	.....	734	36,078	11,372	19,185	5,519	.....	62,380
.....	80,745	28,460	775	23,549	11,889	6,663	4,997	.....	66,920
.....	82,966	29,633	801	28,225	11,424	9,158	7,643	.....	72,078
.....	84,958	31,324	855	37,116	13,355	14,331	8,942	.....	79,610
.....	87,887	33,406	998	43,832	14,948	17,630	11,454	.....	90,802
.....	91,453	36,540	1,028	48,908	21,129	18,715	9,064	.....	96,858
.....	93,861	38,613	1,061	53,270	23,028	20,235	9,827	.....	105,768
.....	97,720	41,388	1,099	75,367	34,125	23,010	18,232	.....	129,160
.....	99,890	42,475	1,168	87,182	39,283	34,475	9,986	$3,438	141,426
.....	102,784	43,855	1,210	64,371	35,062	26,204	2,951	154	150,446
.....	106,453	45,244	1,256	118,790	54,841	42,269	16,910	5,770	170,123
.....	109,047	46,009	1,303	120,217	42,508	31,823	1,401	44,485	171,592
.....	110,027	47,299	1,334	120,677	50,243	43,069	14,277	13,088	185,004
.....	112,785	48,193	1,399	182,127	54,582	46,278	18,159	63,108	208,981
.....	114,522	51,038	1,394	236,591	63,024	57,409	27,116	89,042	236,138
.....	114,393	52,102	1,535	277,006	72,793	56,556	32,814	115,443	267,487

**Vide* notes, pp. 254-255.

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APPENDIX C—CONTINUED

DISBURSEMENTS

VII. Recreation.					VIII. Municipal Industries.						
	Parks.		Baths.		Aggregates.			Water Works.*		Markets.	
Total.	Expenses.	Outlays.	Expenses.	Outlays.	Total.	Expenses.	Outlays.	Expenses.	Outlays.	Expenses.	Outlays.
.....	.....	.....	.....	.....	$235,976	$48,941	$187,035	$19,725	$187,035	$4,253	.....
.....	.....	.....	.....	.....	221,477	61,320	160,157	34,537	160,157	14,130	.....
$28,831	$28,831	.....	.....	.....	.....	.....	.....	.....	.....	3,595	.....
242,316	.....	*$242,316	.....	.....	481,769	71,171	410,598	41,891	410,598	.....	.....
10,858	10,858	.....	.....	.....	262,414	252,502	9,912	195,068	.....	8,043	.....
60,657	60,657	.....	.....	.....	225,354	225,354	.....	173,706	.....	6,602	.....
21,103	21,103	.....	.....	.....	325,425	122,421	203,004	67,448	203,004	9,743	.....
9,190	9,190	.....	.....	.....	214,252	137,299	76,953	71,245	71,892	6,505	.....
6,643	6,189	454	.....	.....	256,324	191,266	65,058	89,411	64,759	13,218	.....
7,338	6,354	984	.....	.....	156,779	59,589	97,190	35,515	84,183	12,828	$12,223
27,544	7,631	19,913	.....	.....	196,161	86,993	109,168	63,844	100,000	11,352	1,597
25,614	8,947	16,667	.....	.....	322,922	139,567	183,355	67,324	155,036	9,977	8,500
13,964	7,959	6,005	.....	.....	488,227	152,993	335,234	72,616	320,653	12,108	339
31,741	11,006	20,735	.....	.....	569,820	151,102	418,718	71,961	410,912	9,213	.....
54,734	14,051	40,683	.....	.....	789,198	174,779	614,419	77,699	609,207	9,788	.....
32,348	12,740	19,608	.....	.....	678,907	185,430	493,487	79,801	488,841	11,681	.....
19,162	19,162	.....	.....	.....	407,844	187,875	219,969	84,411	217,770	13,792	.....
25,100	25,100	.....	.....	.....	478,062	184,817	293,265	88,946	285,553	13,147	1,305
25,573	25,573	.....	.....	.....	517,516	162,785	354,731	89,395	354,731	12,911	.....
18,631	18,631	.....	.....	.....	599,337	243,208	356,129	90,530	356,129	15,096	.....
30,741	19,954	10,787	.....	.....	686,607	169,794	516,813	110,129	516,813	17,340	.....
26,583	26,583	.....	.....	.....	567,046	242,157	324,889	125,074	324,889	20,500	.....
27,708	27,708	.....	.....	.....	494,515	228,475	257,040	120,851	257,040	22,572	.....
36,375	30,850	5,525	.....	.....	638,762	304,804	333,958	162,977	332,807	24,189	.....
557,477	43,357	510,055	.....	$4,065	659,951	320,414	339,537	188,896	338,363	19,266	313
380,457	53,676	326,781	.....	.....	752,878	343,805	409,073	193,367	355,157	19,329	728
250,400	67,975	182,425	.....	.....	737,231	288,470	448,761	196,196	435,806	25,980	871
749,687	79,755	669,932	.....	.....	871,664	316,119	555,545	188,400	553,404	19,949	241
571,453	76,537	494,916	.....	.....	857,467	302,964	554,503	202,376	525,057	19,730	686
643,462	160,164	483,298	.....	.....	895,207	323,553	571,654	214,630	560,070	20,410	1,000
754,855	186,079	568,776	.....	.....	1,025,659	421,748	603,911	294,763	591,798	20,583	293
552,857	94,652	458,205	.....	.....	1,039,458	404,181	635,277	274,840	633,269	20,707	404
338,557	108,585	226,404	$468	3,100	1,634,739	402,537	1,232,202	262,479	1,019,323	20,355	123,306
218,678	117,170	86,866	.....	14,642	1,349,573	427,134	912,739	288,894	872,406	22,122	37,362
306,056	146,073	146,073	3,956	9,974	1,145,847	492,952	652,995	343,598	619,110	20,769	119
519,428	208,411	279,060	10,976	15,081	1,145,603	533,432	612,171	355,237	592,734	22,986	143

*Vide notes, pp. 254-255.

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APPENDIX C—CONCLUDED

DISBURSEMENTS

YEAR.	VIII. Municipal Industries.—*Continued.*					IX. Interest.	X. Public Indebtedness.		
	Cemeteries.		Workhouse.	City Store Room.	School Books.		Total.	Bonds Redeemed.	Notes Redeemed.
	Expenses.	Outlays.							
.....	$24,963	.....	.....	.....	.....	$149,070	$84,720	$84,720	.....
.....	12,653	.....	.....	.....	.....	166,202	16,000	16,000	.....
.....	11,703	$8,941	$10,590	.....	.....	174,375	10,000	10,000	.....
.....	18,932	.....	10,348	.....	.....	227,171	45,000	45,000	.....
.....	24,433	9,912	24,958	.....	.....	306,674	955,750	570,200	$385,550
.....	19,100	.....	25,778	.....	.....	476,286	680,288	673,588	6,700
.....	21,170	.....	24,060	.....	.....	338,756	773,791	773,791	.....
.....	7,185	5,061	52,364	.....	.....	369,604	853,691	853,691	.....
.....	13,957	299	74,680	.....	.....	398,806	205,824	205,824	.....
.....	11,246	829	*.....	.....	.....	395,939	881,722	881,722	.....
.....	11,797	7,571	*.....	.....	.....	380,014	1,208,296	1,208,296	.....
.....	13,035	19,819	49,231	.....	.....	393,390	698,531	698,531	.....
.....	16,404	14,242	51,865	.....	.....	371,095	704,527	704,527	.....
.....	15,263	7,806	54,665	.....	.....	381,872	406,989	*340,524	66,465
.....	16,472	5,212	70,820	.....	.....	387,318	409,854	*348,740	61,114
.....	14,839	4,636	77,025	.....	.....	397,333	370,700	*370,700	.....
.....	14,577	2,199	75,095	.....	.....	438,193	638,350	634,100	4,250
.....	16,872	6,407	65,852	.....	.....	447,430	657,710	638,600	19,110
.....	*	.....	60,479	.....	.....	446,862	343,470	336,800	6,670
.....	25,423	.....	112,159	.....	.....	447,112	923,850	612,100	31,750
.....	42,325	.....	*.....	.....	.....	410,393	387,000	324,000	63,000
.....	27,973	.....	68,610	.....	.....	552,192	627,255	341,000	286,255
.....	30,300	.....	63,752	.....	.....	420,287	1,112,438	971,043	141,395
.....	26,344	1,151	59,133	.....	32,161	455,426	1,034,680	949,275	85,405
.....	22,143	861	74,770	6,384	8,955	475,785	999,029	857,172	141,857
.....	24,952	53,188	77,605	5,519	23,033	481,068	1,641,234	1,458,962	182,272
.....	22,322	12,084	15,555	5,458	22,959	435,135	1,470,625	1,167,099	303,526
.....	24,515	1,900	30,537	5,230	47,438	482,719	1,505,596	1,218,235	287,361
.....	16,318	28,760	28,254	6,031	30,255	491,352	1,400,172	1,037,070	363,102
.....	26,884	10,584	24,833	6,643	30,153	576,179	1,172,395	656,070	516,325
.....	30,714	11,820	35,438	5,966	34,284	596,294	1,338,480	854,830	483,650
.....	29,821	1,604	34,186	8,951	35,676	650,671	886,176	331,980	554,196
.....	32,141	89,573	15,308	9,497	62,757	717,006	2,434,007	1,752,750	681,257
.....	33,313	3,071	33,351	10,849	48,605	823,960	1,744,452	1,101,000	643,452
.....	39,469	33,666	28,440	13,522	27,159	865,310	1,399,151	561,000	838,151
.....	38,133	19,294	24,820	14,350	47,816	969,011	1,230,807	666,050	564,857

*Vide notes, pp. 254–255.

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NOTES RELATING TO STATISTICS OF DISBURSEMENTS

The population statistics from 1840 to 1900 are based upon the decennial Federal Censuses; the amount of growth during a decade is assumed to be uniform for each year. Since 1900 the estimates of the Census authorities, as given in Bulletins 20 and 50, are used. These estimates are regarded by some as too low, but the error in the figures given for 1905 is probably very slight. The City Documents and Reports show a tendency in every intercensal period to exaggerate greatly the growth which had taken place. Serious calculations in 1898 were based on a population of 400,000, which was not attained until 1902.

Total Disbursements include interest payments, but not payments for reducing the principal of the debt.

It must be remembered that from disbursements for Schools and Libraries, as well as for the various departments of the city government proper, all payments for interest on debt and for liquidation of the principal are excluded.

Totals under each head sometimes slightly exceed the sum of items recorded. The excess consists of miscellaneous payments falling under that general head, although occurring too infrequently or not being of sufficient importance to warrant placing them in a separate column.

For the years from 1837 to 1870 the attempt, where made, to separate "expenses" from "outlays" is always very imperfect, and for the earlier part of the following period in many items the result is only approximately accurate.

1854: Disbursements for Parks contains $600 for Fourth of July Celebration.

1862: Expenses of General Government contain $87,065 paid to C. & P. R. R. Commissioners; $14,822 for Lighting; $5,157 for Bridges, and $3,283 for Perry Statue.

1865: Figures given for Expenses of General Government are approximately accurate, items belonging elsewhere being eliminated. The same is true for 1870.

1867: Total does not include data for schools; reports are not available.

1870: *Cf.* note for 1865.

1871–1875: Total Highways contain an average of $22,000 a year for street sprinkling.

1872: Figures are for nine months, April to December. $444,057 of Costs of Court represents awards and costs of court for streets opened, widened or extended.

1873: $733,011 represents award and costs of court for streets opened, widened, or extended. Money raised for Health Department heretofore is credited to General Fund. Sanitary Fund was established in 1874. Total cost of work in charge of City Civil Engineer completed in 1873 was $704,996, in addition to

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1878: $943,662 was reported as expenditure for Streets with no indication of how it was used.

1879–1883: Disbursements for Armory were for outlays, except $668 in 1882.

1879–1880: Disbursements for House of Correction and Institutional Industries are not distinguishable.

1880–1886: Night Soil expenditures not reported.

1886: Data for Out-door Relief not reported.

1888: Civil Engineer's report states that work costing $1,100,945 was done by contract in 1888; Auditor's report does not show it. No data for Cemeteries.

1889: Disbursements for Courts include $13,620 for outlays.

1890: Amount reported for House of Correction includes also disbursement for Institutional Industries.

1890: Expenditures for Schools not included in Total; data not available.

1891–1892: Public Printing was chiefly for official advertising.

1892: Expense of Lighting contains $99,486 for claims of contractor prior to 1892.

1899: Outlays for Paving contain $14,283 for repairs.

1900: Paving contains $12,424 for repairs.

1901: Expenses of Health Department contain $24,067 for outlays. Paving contains $21,138 for repairs.

1902–1905: City Farm School, includes outlays: in 1902, $4,620; 1903, $12,217; 1904, $33,165; 1905, $22,782.

1904–1905: For Finance Offices, cost of collecting taxes not being given in reports, an estimate is made, based on reports of previous years.

1904: Election Expenses contain $7,039 outlays. $20,571 of "Miscellaneous" General Government paid to Glenville on annexation. $24,097 of the Lighting Expenses represents a court judgment.

1905: Election Expenses contain $1,242 outlays. "Miscellaneous" General Government includes $44,427 for Glenville annexation. Of the amount for Garbage Collection and Disposal, $158,642 is for outlays.

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APPENDIX D

DEBT AND SINKING FUNDS

YEAR.	General Debt.	Lake Shore Protection.	Sewer.	Street.	Infirmary and House of Correction.	School.	Water Works.	Cemeteries.	Temporary Loans.	Total Debt.	Sinking Fund Assets.	Net Debt.
1841	.....	.....	.....	.....	.....	$8,000	.....	.....	$5,000	$20,000	.....	$20,000
1842	.....	$7,000	.....	.....	.....	7,000	.....	.....	6,000	20,000	.....	20,000
1843	.....	7,000	.....	.....	.....	6,000	.....	.....	4,000	17,000	.....	17,000
1844	.....	8,000	.....	.....	.....	6,000	.....	.....	6,000	20,000	.....	20,000
1845	.....	8,000	.....	.....	.....	6,000	.....	.....	7,000	21,000	.....	21,000
1846	.....	8,000	.....	.....	.....	6,000	.....	.....	14,000	28,000	.....	.....
1847	.....	8,000	.....	.....	.....	6,000	.....	.....	9,000	23,000	.....	.....
1848	.....	8,000	.....	.....	.....	6,000	.....	.....	9,000	23,000	.....	.....
1849	.....	8,000	.....	.....	.....	6,000	.....	.....	8,000	14,000	.....	.....
1850	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1851	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1852	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1853	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1854	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1855	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1856	$83,000	8,000	.....	.....	$8,000	36,000	$400,000	$14,000	.....	549,000	.....	.....
1857	70,000	8,000	.....	$5,000	8,000	35,000	500,000	14,000	.....	640,000	.....	.....
1858	66,000	8,000	.....	3,000	6,000	32,000	500,000	14,000	.....	629,000	.....	.....
1859	63,000	8,000	.....	3,000	6,000	31,000	525,000	14,000	.....	650,000	.....	.....
1860	53,000	9,000	.....	6,000	5,000	22,000	550,000	14,000	22,000	681,000	.....	.....
1861	50,000	9,000	$16,000	.....	14,000	31,000	569,000	14,000	3,000	706,000	.....	.....
1862	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1863	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1864	115,000	.....	38,000	.....	.....	41,000	550,000	.....	24,000	768,000	.....	.....
1865	211,000	.....	32,000	.....	47,000	41,000	550,000	.....	.....	881,000	$471,000	410,000
1866	230,000	.....	31,000	.....	.....	80,000	550,000	.....	198,000	1,089,000	570,000	519,000
1867	195,000	.....	91,000	.....	.....	80,000	550,000	.....	209,000	1,125,000	598,000	527,000
1868	251,000	.....	265,000	.....	.....	187,000	550,000	.....	193,000	1,446,000	934,000	513,000
1869	341,000	.....	348,000	.....	16,000	385,000	550,000	.....	306,000	1,946,000	1,009,000	937,000
1870	765,000	.....	329,000	334,000	200,000	419,000	625,000	.....	239,000	2,911,000	1,147,000	1,764,000

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DEBT AND SINKING FUNDS

YEAR. January 1st.	I. General Government.			II. Protection to Life and Property		III. Health Conservation and Sanitation.				IV. Highways.		
										Street Improvement.		Street Damage.
	General.	"Funded."	City Hall.	Police.	Fire.	Sewer	Intercepting Sewer.	Sanitary.	Garbage.	Bonds.	Notes.	
1871	.....	$775,000	.....	.....	.....	$320,000	.....	.....	.....	.....	$27,000	.....
1872	.....	945,000	.....	.....	.....	370,000	.....	.....	.....	.....	70,000	.....
1873	.....	1,165,000	.....	.....	.....	337,000	.....	.....	.....	.....	.....	.....
1874	.....	1,355,000	.....	.....	.....	320,000	.....	.....	.....	$897,000	.....	.....
1875	.....	1,882,000	.....	.....	.....	600,000	.....	.....	.....	1,269,000	.....	$683,000
1876	.....	1,722,000	.....	.....	.....	688,000	.....	.....	.....	1,393,000	.....	856,000
1877	.....	1,507,000	.....	.....	.....	680,000	.....	.....	.....	1,365,000	.....	983,000
1878	.....	1,464,000	.....	.....	.....	647,000	.....	.....	.....	1,335,000	.....	1,011,000
1879	.....	1,509,000	.....	.....	.....	586,000	.....	.....	.....	953,000	.....	1,067,000
1880	.....	1,534,000	.....	.....	.....	494,000	.....	.....	.....	830,000	35,000	1,067,000
1881	.....	1,758,000	.....	.....	.....	417,000	.....	.....	.....	463,000	33,000	710,000
1882	.....	1,845,000	.....	.....	.....	358,000	.....	.....	.....	273,000	.....	546,000
1883	.....	1,931,000	.....	.....	.....	289,000	.....	.....	.....	109,000	63,000	352,000
1884	.....	1,880,000	.....	.....	.....	370,000	.....	.....	.....	267,000	59,000	203,000
1885	.....	1,906,000	.....	.....	.....	336,000	.....	.....	.....	337,000	.....	203,000
1886	$225,000	1,824,000	.....	.....	.....	284,000	.....	.....	.....	364,000	4,000	60,000
1887	250,000	1,909,000	.....	.....	.....	277,000	.....	.....	.....	333,000	19,000	36,000
1888	250,000	2,068,000	.....	.....	.....	290,000	.....	.....	.....	292,000	7,000	29,000
1889	185,000	2,005,000	.....	.....	.....	356,000	.....	.....	.....	244,000	74,000	27,000
1890	185,000	1,923,000	.....	.....	.....	368,000	.....	.....	.....	183,000	71,000	15,000
1891	135,000	1,772,000	.....	.....	.....	367,000	.....	.....	.....	142,000	184,000	111,000
1892	45,000	1,699,000	.....	$20,000	$90,000	532,000	.....	.....	.....	518,000	100,000	101,000
1893	45,000	1,686,000	.....	120,000	90,000	590,000	.....	.....	.....	397,000	138,000	80,000
1894	45,000	1,696,000	.....	120,000	337,000	619,000	.....	.....	.....	805,000	228,000	70,000
1895	45,000	1,596,000	.....	120,000	342,000	534,000	.....	.....	.....	717,000	419,000	60,000
1896	45,000	1,596,000	.....	120,000	251,000	463,000	.....	.....	.....	446,000	678,000	50,000
1897	.....	1,596,000	.....	120,000	249,000	696,000	$110,000	.....	.....	240,000	629,000	40,000
1898	12,000	1,434,000	.....	120,000	247,000	921,000	310,000	.....	.....	70,000	662,000	30,000
1899	7,000	1,434,000	.....	120,000	247,000	1,062,000	550,000	.....	$100,000	57,000	1,135,000	20,000
1900	4,000	1,434,000	.....	120,000	247,000	1,368,000	550,000	.....	100,000	56,000	1,161,000	.....
1901	2,000	1,405,000	.....	245,000	452,000	1,725,000	650,000	.....	100,000	35,000	1,137,000	.....
1902	.....	1,405,000	.....	225,000	452,000	1,920,000	1,150,000	.....	100,000	22,000	1,391,000	.....
1903	.....	1,354,000	$700,000	225,000	352,000	2,911,000	1,150,000	$110,000	100,000	11,000	1,490,000	.....
1904	.....	1,354,000	700,000	225,000	352,000	3,391,000	1,650,000	110,000	255,000	51,000	1,626,000	.....
1905	.....	1,354,000	700,000	225,000	377,000	3,611,000	2,120,000	110,000	255,000	259,000	1,550,000	116,000
1906	.....	1,354,000	701,000	225,000	597,000	3,956,000	2,504,000	110,000	255,000	1,706,000	506,000	316,000

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APPENDIX D—CONTINUED

DEBT AND SINKING FUNDS

YEAR.	IV Highways.—*Continued*.								V. Charities and Correction.			VI. Education.	
	Viaduct.	Canal.	Bridge.	Elevated Roadway.	Dredging.	River and Harbor.	Miscellaneous Highways.	Total Highways.	Infirmary.	House of Correction.	City Farm School.	Schools.	Library.
1871	.....	.....	.....	.....	.....	.....	.....	$27,000	.....	$200,000	.....	$405,000	.....
1872	.....	.....	.....	.....	.....	.....	.....	70,000	.....	200,000	.....	479,000	.....
1873	.....	.....	.....	.....	.....	.....	.....	.....	.....	200,000	.....	479,000	.....
1874	$81,000	.....	.....	.....	.....	.....	.....	978,000	.....	200,000	.....	454,000	.....
1875	268,000	$150,000	.....	.....	.....	.....	.....	.....	.....	200,000	.....	429,000	.....
1876	718,000	195,000	.....	.....	.....	.....	.....	2,370,000	$10,000	200,000	.....	425,000	.....
1877	968,000	264,000	.....	.....	$24,000	.....	.....	3,604,000	65,000	200,000	.....	419,000	.....
1878	1,568,000	264,000	.....	.....	51,000	.....	.....	4,229,000	60,000	200,000	.....	414,000	.....
1879	2,135,000	272,000	.....	.....	100,000	.....	.....	4,527,000	54,000	184,000	.....	409,000	.....
1880	2,135,000	275,000	.....	.....	80,000	.....	.....	4,422,000	48,000	184,000	.....	355,000	.....
1881	2,138,000	275,000	.....	.....	61,000	.....	.....	3,680,000	42,000	184,000	.....	350,000	.....
1882	2,138,000	275,000	.....	.....	42,000	.....	.....	3,274,000	36,000	184,000	.....	355,000	.....
1883	2,138,000	275,000	.....	.....	20,000	.....	.....	2,957,000	30,000	184,000	.....	250,000	.....
1884	2,138,000	275,000	.....	.....	.....	.....	.....	2,942,000	24,000	100 000	.....	150,000	.....
1885	2,138,000	275,000	$65,000	.....	.....	.....	.....	3,018,000	18,000	.....	.....	150,000	.....
1886	2,138,000	275,000	185,000	.....	.....	.....	.....	3,026,000	12,000	.....	.....	455,000	.....
1887	2,138,000	275,000	225,000	$335,000	.....	.....	.....	3,411,000	6,000	.....	.....	381,000	.....
1888	2,138,000	275,000	307,000	660,000	.....	.....	.....	3,706,000	.....	.....	.....	331,000	.....
1889	2,138,000	275,000	307,000	884,000	.....	.....	.....	3,949,000	.....	.....	.....	486,000	.....
1890	2,138,000	275,000	305,000	892,000	.....	.....	.....	3,879,000	.....	.....	.....	661,000	.....
1891	2,138,000	275,000	305,000	892,000	.....	.....	.....	4,047,000	.....	.....	14,000	761,000	.....
1892	2,138,000	275,000	305,000	892,000	.....	.....	.....	4,329,000	.....	.....	14,000	1,030,000	.....
1893	2,138,000	275,000	475,000	892,000	.....	.....	.....	4,395,000	.....	.....	14,000	950,000	.....
1894	1,990,000	275,000	760,000	892,000	.....	.....	.....	5,025,000	.....	.....	14,000	995,000	.....
1895	1,870,000	275,000	755,000	892,000	.....	.....	.....	4,988,000	.....	.....	14,000	992,000	.....
1896	1,570,000	187,000	675,000	892,000	.....	.....	.....	4,498,000	.....	.....	.....	906,000	.....
1897	1,070,000	161,000	725,000	892,000	.....	$250,000	.....	4,007,000	.....	.....	.....	901,000	.....
1898	845,000	161,000	969,000	892,000	.....	500,000	.....	4,129,000	.....	.....	.....	1,201,000	.....
1899	465,000	150,000	1,059,000	892,000	.....	750,000	.....	4,528,000	.....	.....	.....	1,401,000	$250,000
1900	275,000	150,000	1,099,000	892,000	.....	750,000	.....	4,248,000	.....	.....	.....	1,395,000	250,000
1901	275,000	150,000	1,229,000	1,067,000	.....	1,050,000	$50,000	4,993,000	.....	.....	.....	1,545,000	250,000
1902	275,000	150,000	1,209,000	892,000	.....	1,050,000	50,000	5,039,000	.....	.....	.....	1,668,000	250,000
1903	275,000	150,000	1,229,000	892,000	.....	1,050,000	120,000	5,217,000	.....	.....	35,000	2,191,000	250,000
1904	275,000	.....	1,179,000	767,000	50,000	1,050,000	120,000	4,828,000	.....	.....	35,000	2,189,000	250,000
1905	125,000	.....	1,404,000	635,000	250,000	1,200,000	120,000	5,159,000	.....	.....	50,000	2,308,000	250,000
1906	125,000	.....	1,504,000	635,000	750,000	1,250,000	160,000	6,952,000	100,000	.....	70,000	2,308,000	250,000

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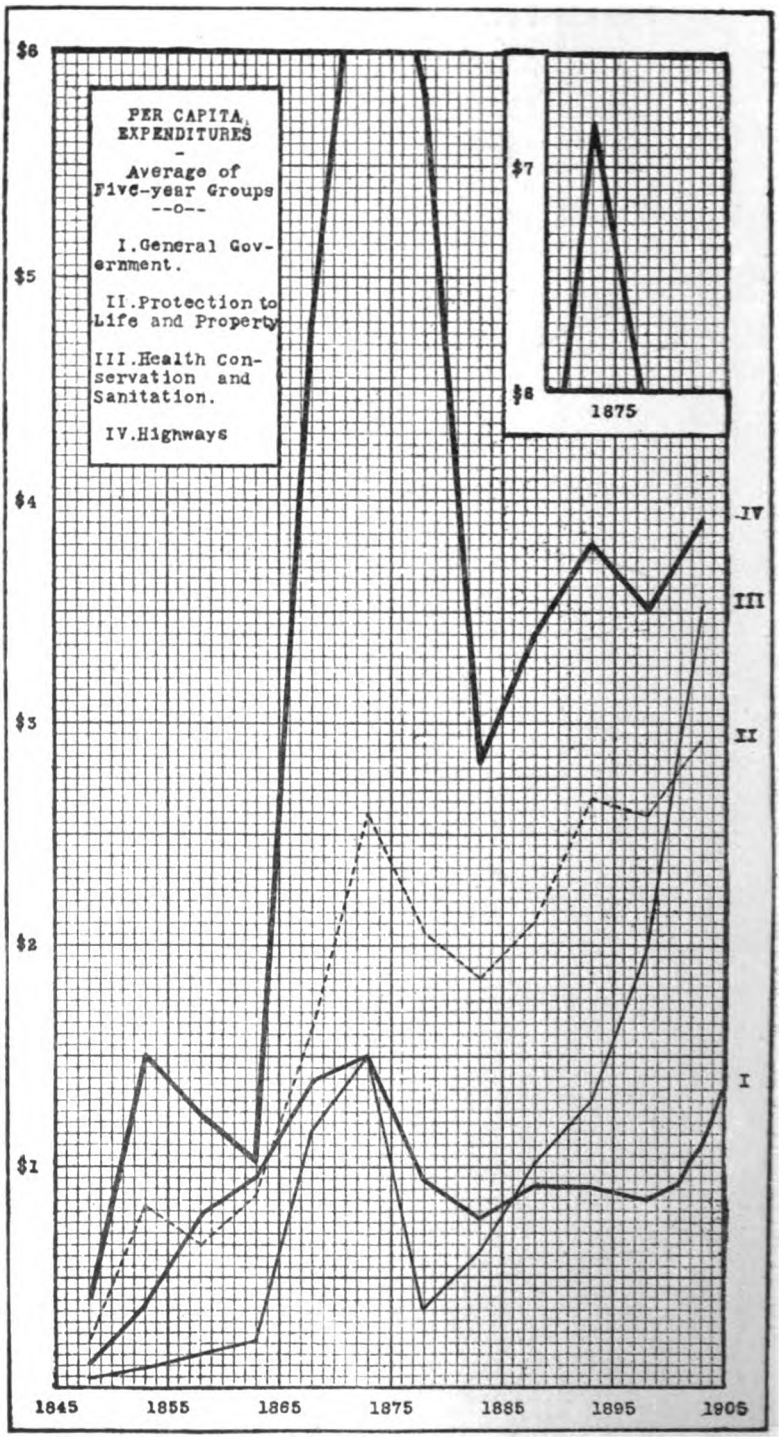
APPENDIX D—CONTINUED

DEBT AND SINKING FUNDS

YEAR.	VII. Recreation.		VIII. Municipal Industries.			Temporary Loans.	Accounts Overdrawn.	Total Debt.	Assets of Sinking Funds (Par Value).							Net Debt.
	Parks.	Bathhouses.	Water Works.	Cemeteries.	Market House.				Sinking Fund of 1862.	Viaduct Sinking Fund.	General Sinking Fund.	City Hall Sinking Fund.	School Sinking Fund.	Library Sinking Fund.	Total Assets of Sinking Funds.	
1871	.....	.....	$727,000	.....	.....	$32,000	.....	$2,486,000	$1,311,551	.....	.....	.....	.....	.....	$1,311,551	$1,174,000
1872	.....	.....	835,000	.....	.....	39,000	$70,000	3,008,000	1,209,860	.....	.....	.....	.....	.....	1,209,860	1,798,000
1873	$30,000	.....	1,325,000	.....	.....	59,000	.....	4,573,000	1,551,106	.....	.....	.....	.....	.....	1,551,106	3,021,000
1874	265,000	.....	1,525,000	.....	.....	10,000	417,000	4,546,000	1,688,794	.....	.....	.....	.....	.....	1,688,794	2,857,000
1875	315,000	.....	1,525,000	.....	.....	.....	.....	4,951,000	1,761,543	.....	.....	.....	.....	.....	1,761,543	3,189,000
1876	315,000	.....	1,575,000	.....	.....	.....	.....	7,305,000	1,863,736	.....	.....	.....	.....	.....	1,863,736	5,441,000
1877	315,000	.....	1,725,000	.....	.....	.....	.....	8,605,000	1,989,735	.....	.....	.....	.....	.....	1,989,735	6,615,000
1878	315,000	.....	1,725,000	.....	.....	.....	536,000	9,590,000	2,109,357	.....	.....	.....	.....	.....	2,109,357	7,480,000
1879	315,000	.....	1,700,000	.....	.....	18,000	.....	9,302,000	1,816,691	.....	.....	.....	.....	.....	1,816,691	7,485,000
1880	315,000	.....	1,275,000	.....	.....	17,000	144,000	8,788,000	1,928,743	$318,297	$20,895	.....	.....	.....	2,267,935	6,520,000
1881	318,000	.....	1,200,000	.....	.....	37,000	118,000	8,067,000	1,596,264	359,798	5,507	.....	.....	.....	1,961,569	6,105,000
1882	318,000	.....	800,000	.....	.....	34,000	242,000	7,449,000	1,252,849	389,031	15,129	.....	.....	.....	1,657,009	5,792,000
1883	315,000	.....	900,000	.....	.....	2,000	361,000	7,219,000	1,121,802	420,110	8,491	.....	.....	.....	1,550,403	5,669,000
1884	315,000	.....	1,100,000	.....	.....	.....	171,000	7,052,000	1,072,772	478,109	793	.....	.....	.....	1,551,674	5,500,000
1885	346,000	.....	1,500,000	.....	.....	.....	40,000	7,314,000	1,102,188	534,050	7,496	.....	.....	.....	1,643,734	5,671,000
1886	333,000	.....	1,775,000	.....	.....	.....	145,000	8,079,000	1,134,181	587,471	5,500	.....	.....	.....	1,727,152	6,352,000
1887	292,000	.....	1,775,000	.....	.....	.....	161,000	8,462,000	1,090,070	636,878	5,065	.....	.....	.....	1,732,013	6,730,000
1888	87,000	.....	1,775,000	.....	.....	.....	152,000	8,681,000	1,964,561	699,361	884	.....	.....	.....	2,664,806	6,016,000
1889	80,000	.....	1,775,000	.....	.....	.....	195,000	9,131,000	1,071,528	793,049	22,920	.....	.....	.....	1,887,497	7,243,000
1890	30,000	.....	1,775,000	.....	.....	.....	118,000	8,939,000	1,054,607	846,140	54,741	.....	.....	.....	1,955,488	6,983,000
1891	30,000	.....	1,775,000	.....	.....	.....	115,000	9,016,000	1,049,535	912,041	67,319	.....	.....	.....	2,028,895	6,987,000
1892	30,000	.....	1,775,000	.....	.....	.....	201,000	9,765,000	1,054,715	978,583	938	.....	.....	.....	2,034,236	7,730,000
1893	.....	.....	1,775,000	.....	.....	.....	.....	9,655,000	1,106,058	1,045,125	.....	.....	.....	.....	2,151,183	7,504,000
1894	.....	.....	1,775,000	.....	.....	.....	.....	10,621,000	1,167,290	982,205	.....	.....	$102,309	.....	2,251,804	8,369,000
1895	800,000	.....	1,801,000	.....	.....	.....	.....	11,232,000	1,234,969	960,197	.....	.....	106,444	.....	2,301,610	8,930,000
1896	1,000,000	.....	1,796,000	.....	.....	.....	.....	10,675,000	1,300,112	703,287	.....	$128,603	119,603	.....	2,251,695	8,423,000
1897	1,000,000	.....	1,892,000	.....	.....	.....	.....	10,571,000	1,368,310	449,431	.....	191,064	82,493	.....	2,091,298	8,479,000
1898	1,600,000	.....	2,087,000	.....	.....	.....	.....	12,061,000	1,442,325	442,869	.....	271,628	87,844	.....	2,244,686	9,816,000
1899	2,000,000	.....	2,387,000	.....	.....	.....	.....	14,093,000	1,696,828	197,448	.....	349,077	122,964	.....	2,366,317	11,726,000
1900	2,500,000	.....	2,387,000	.....	.....	.....	.....	14,503,000	1,742,979	210,438	.....	308,926	158,166	.....	2,420,509	12,082,000
1901	3,000,000	.....	2,687,000	.....	.....	.....	.....	17,054,000	1,822,508	224,789	.....	527,729	224,359	.....	2,799,385	14,254,000
1902	3,000,000	.....	2,687,000	.....	$110,000	.....	.....	18,006,000	1,898,869	243,427	.....	425,154	557,394	$28,325	3,153,069	14,852,000
1903	3,000,000	$25,000	3,287,000	$100,000	110,000	.....	.....	21,217,000	1,983,394	281,397	.....	429,658	183,655	47,734	2,925,838	18,291,000
1904	3,050,000	25,000	3,625,000	125,000	160,000	.....	.....	22,324,000	2,071,999	168,105	7,097	451,385	232,270	56,892	2,987,748	19,336,000
1905	3,305,000	30,000	3,950,000	150,000	160,000	.....	.....	24,114,000	2,163,463	172,878	55,505	413,555	388,186	66,845	3,433,430	20,680,000
1906	3,680,000	50,000	4,266,000	150,000	160,000	.....	.....	27,688,000	2,240,525	180,944	175,456	271,122	243,185	56,721	3,413,008	24,274,000

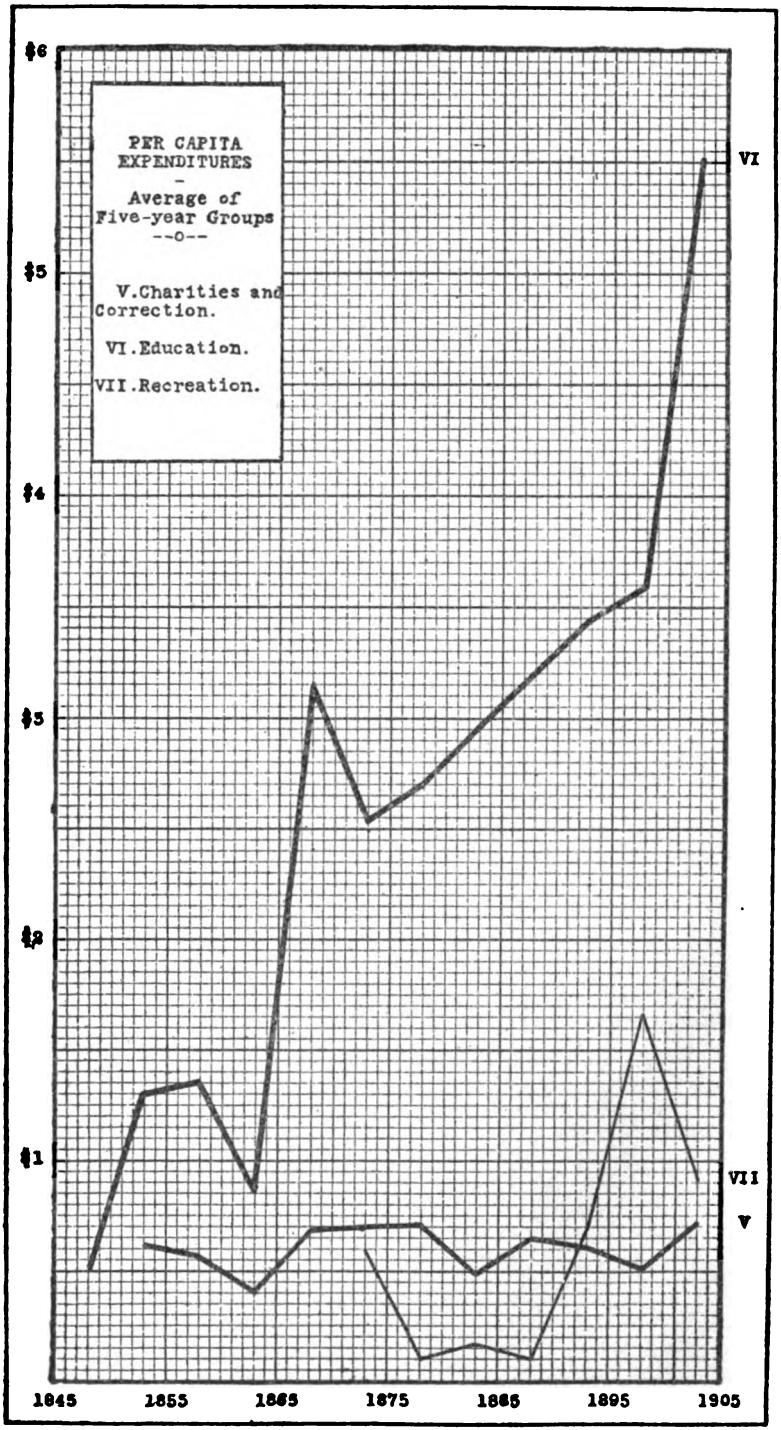
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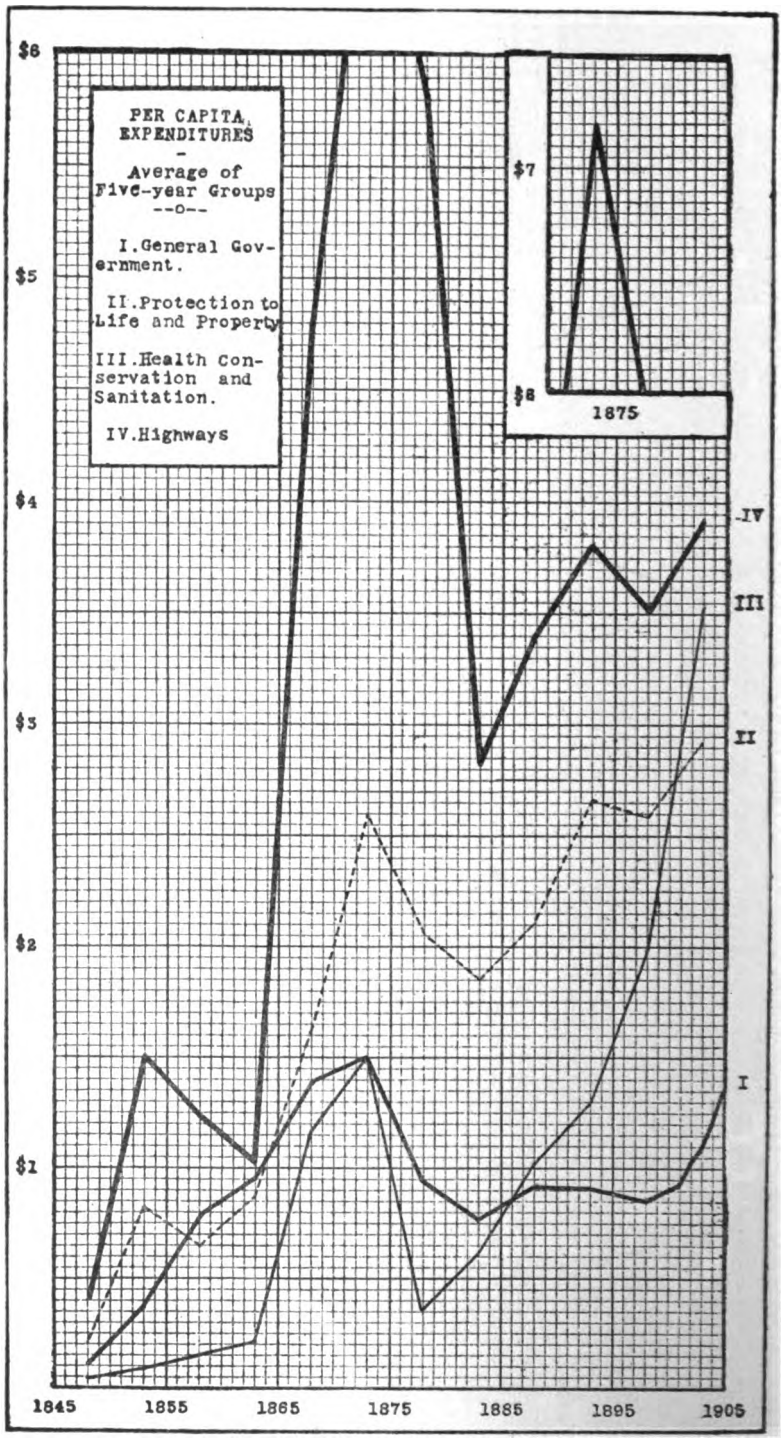
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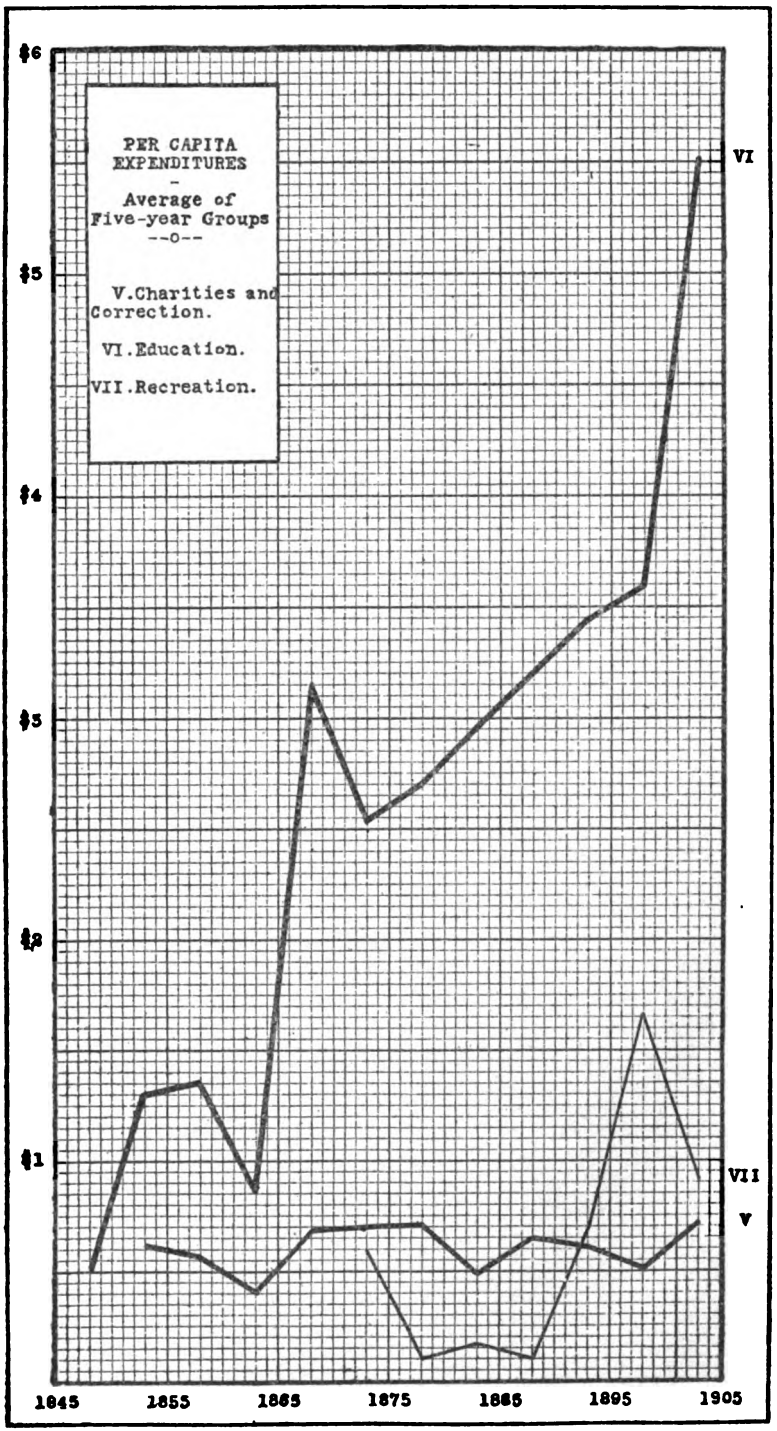
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